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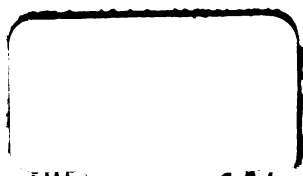
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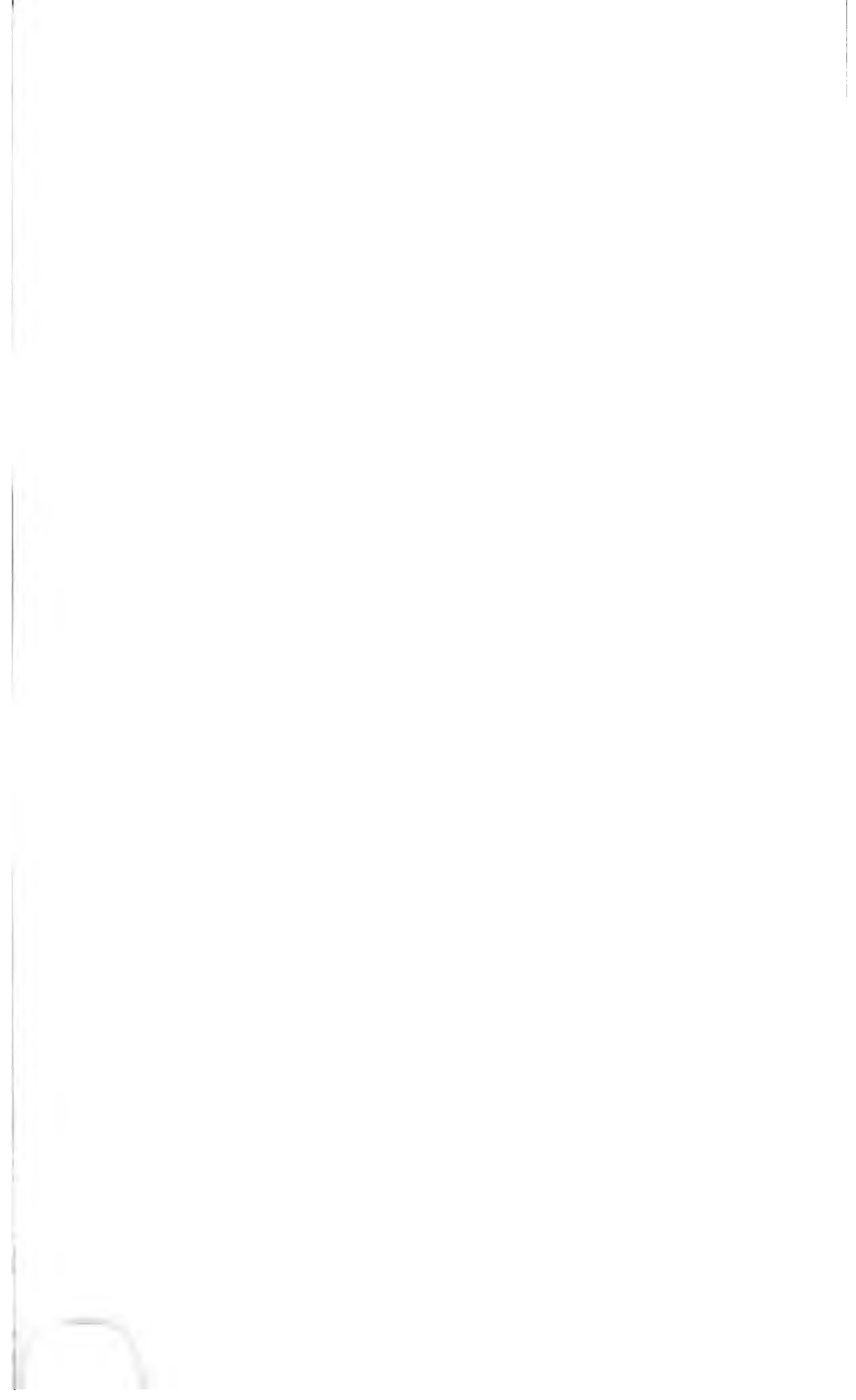


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ACCOUNTS AND PAPERS:

*TWENTY-FIVE VOLUMES.*

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—(7.)—

EAST INDIA.

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Session

*4 February—9 August 1845.*

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34  
VOL. XXXIV.

1845.

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BR DOC 650

# ACCOUNTS AND PAPERS:

1845.

## TWENTY-FIVE VOLUMES:—CONTENTS OF THE SEVENTH VOLUME.

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E A S T I N D I A.

A C C O U N T S

RESPECTING THE

ANNUAL TERRITORIAL REVENUES AND DISBURSEMENTS

OF

THE EAST INDIA COMPANY,

FOR THREE YEARS

(1840/41—1841/42—1842/43),

ACCORDING TO THE LATEST ADVICES:

WITH AN ESTIMATE OF THE SAME FOR THE SUCCEEDING YEAR.

(Pursuant to Act 3 & 4 WILL. IV. c. 85, s. 116.)

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*Ordered, by The House of Commons, to be Printed,*  
10 June 1845.

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LIST OF ACCOUNTS presented in obedience to the Act 3 & 4 Will. IV. c. 85, s. 116, and agreeably to an Order of the Honourable the House of Commons, dated 10 April 1845.

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East India House, }  
29 May 1845. }

James C. Melvill,  
Secretary.

A C C O U N T S

RESPECTING THE

ANNUAL TERRITORIAL REVENUES AND DISBURSEMENTS

OF

THE EAST INDIA COMPANY.

## No. 1.—AN ACCOUNT of the REVENUES and CHARGES of the BENGAL PRESIDENCY, for

					1840/41.	1841/42.	1842/43.	Estimate, 1843/44.
REVENUES:					<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>
Mint Duties - - - - -	-	-	-	-	5,07,230	4,95,391	4,90,723	5,85,466
Post-office Collections - - - - -	-	-	-	-	5,53,154	6,08,320	6,30,730	6,23,400
Stamp Duties - - - - -	-	-	-	-	21,86,006	22,58,604	22,77,370	22,51,800
House Tax in Calcutta - - - - -	-	-	-	-	2,05,267	-	-	-
Excise Duties in ditto - - - - -	-	-	-	-	1,69,953	3,55,120	2,83,391	2,23,300
Judicial Fees and Fines - - - - -	-	-	-	-	7,02,155	7,06,950	6,92,724	6,91,910
Miscellaneous Civil Receipts, including net gain by Exchange Operations between India and } England - - - - -	-	-	-	-	18,39,339	12,17,230	12,17,953	13,45,000
Land Revenue - - - - -	-	-	-	-	3,46,48,654	3,73,49,358	3,56,76,045	3,56,90,400
Sayer and Abkarry - - - - -	-	-	-	-	20,60,327	22,07,384	23,24,751	23,43,200
Miscellaneous Receipts in the Revenue Department - - - - -	-	-	-	-	1,13,819	1,14,816	1,10,468	1,02,100
Receipts from the Territory ceded by the Burmese - - - - -	-	-	-	-	16,28,298	15,94,355	16,68,153	16,41,800
Ditto from Scinde - - - - -	-	-	-	-	-	-	-	21,73,719
Customs - - - - -	-	-	-	-	48,51,319	50,00,382	53,13,379	53,08,800
Sale of Salt - - - - -	-	-	-	-	1,92,38,567	1,92,51,092	1,86,83,043	1,86,49,719
Sale of Opium - - - - -	-	-	-	-	1,19,78,596	1,37,71,557	1,82,79,956	2,18,50,279
Marine and Pilotage Receipts - - - - -	-	-	-	-	8,21,513	7,66,577	8,13,873	7,15,350
REVENUES of PRINCE OF WALES' ISLAND, SINGAPORE and MALACCA:								
Prince of Wales' Island - - - - -	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>				
Singapore - - - - -	1,71,058	2,01,247	1,85,125	1,83,500				
Malacca - - - - -	3,27,120	4,49,904	4,87,835	4,96,000				
	58,151	60,196	56,128	58,650				
					5,56,329	7,11,847	7,29,088	7,38,150
Subsidy received from the Nagpore Government - - - - -	-	-	-	-	8,00,000	8,00,000	8,00,000	8,00,000
Tributes from the Nizam, Rajpoot and other States - - - - -	-	-	-	-	10,62,448	5,64,021	3,99,618	10,09,088
Interest on Arrears of Revenue, &c. - - - - -	-	-	-	-	4,23,613	4,48,149	4,44,300	1,47,200
TOTAL GROSS REVENUES - - -					8,43,44,586	8,82,20,653	9,08,35,565	9,68,90,681
Deduct, Allowances and Assignments payable out of the Revenues in accordance with Treaties } or other Engagements - - - - -	-	-	-	-	30,58,743	26,49,913	25,03,890	23,71,649
CHARGES of collecting the REVENUES (including cost of Salt and Opium):					8,12,85,843	8,55,70,740	8,83,31,675	9,45,19,032
Charges of collecting the Stamp Duties - - - - -	1,27,124	1,37,158	1,49,635	1,40,000				
Ditto - Land, Sayer and Abkarry } Revenues - - - - -	44,17,681	47,48,560	44,57,862	42,70,840				
Ditto - Customs - - - - -	4,77,389	4,76,501	4,80,465	4,90,450				
Cost and Charges of Salt, including } payments made to the French and } Danish Governments under conven- } tion - - - - -	44,39,792	52,23,054	49,31,034	53,36,745				
Costs and Charges of Opium - - - - -	54,82,272	57,32,888	50,56,520	57,77,545				
					1,49,44,258	1,63,18,161	1,50,75,516	1,60,15,580
TOTAL NET REVENUES of BENGAL PRESIDENCY, after payment of Allow- } ances and Assignments, and Charges of Collection - - - - -					6,63,41,585	6,92,52,579	7,32,56,159	7,85,03,452
EXTRAORDINARY RECEIPTS from the Produce of the Commercial Assets (Act 3 & 4 Will. 4. c. 85, s. 1 & 4.)								
At BENGAL:								
Sale of Import Goods, Export Goods } and Commercial Factories, and re- } coveries of outstanding Commercial } Advances - - - - -	14,332	40,766	7,308	8,900				
At CANTON:								
The Sale Produce of Goods and other } Property in China - - - - -	830	-	-	-				
					15,162	40,766	7,308	8,900
TOTAL REVENUES and RECEIPTS - - - - -					6,63,56,747	6,92,93,345	7,32,63,467	7,85,12,352
BENGAL DEFICIENCY - - - - -					2,09,83,405	2,20,44,171	2,44,10,231	1,13,39,679
Rupees					8,73,40,152	9,13,37,516	9,76,73,698	8,98,52,031

Note.—The Bengal Accounts having formerly included those of the Territories which, under the Act 3 & 4 Will. 4, c. 85, s. 38, became subject to the Govern-

Y E A R S.		NET REVENUES, after Payment of Allowances and Assignments and Charges of Collection.		
		Bengal Presidency.	North-Western Provinces (late Agra Presidency.)	Total.
		<i>Company's Rupees.</i>	<i>Company's Rupees.</i>	<i>Company's Rupees.</i>
1840/41	- - - - -	6,63,41,585	3,75,64,979	10,39,06,564
1841/42	- - - - -	6,92,52,579	4,20,84,604	11,13,37,183
1842/43	- - - - -	7,32,56,159	4,22,59,728	11,55,15,887
1843/44, estimated	- - - - -	7,85,03,452	4,27,38,300	12,12,41,752

Three Years, according to the latest Advices, with an ESTIMATE of the same for the succeeding Year.

CHARGES:					1840/41.	1841/42.	1842/43.	Estimate, 1843/44.
CIVIL and POLITICAL:					Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Mint Charges	-	-	-	-	2,38,673	2,33,277	2,96,100	3,00,424
Post-office Charges	-	-	-	-	4,79,151	5,31,737	5,38,064	5,44,400
Charges of the Civil and Political Establishments, including Contingent Charges	-	-	-	-	97,39,275	*1,36,92,434	97,53,410	91,16,969
TOTAL CIVIL and POLITICAL CHARGES					1,04,57,099	1,44,57,448	1,05,87,574	99,61,798
JUDICIAL and POLICE:								
Charges of the Queen's Supreme Court, and the other Local Courts within its Jurisdiction, including Law Charges	-	-	-	-	10,30,240	11,12,916	11,13,658	10,76,000
Ditto - Sudder, Provincial and Zillah Courts	-	-	-	-	44,27,266	43,45,328	43,78,033	43,62,900
Provincial Police	-	-	-	-	8,47,230	8,47,920	8,35,133	8,34,900
TOTAL JUDICIAL and POLICE CHARGES					63,04,736	63,06,164	63,26,824	62,73,800
Charges in the Territory ceded by the Burmese	-	-	-	-	9,75,147	10,50,871	10,96,790	10,37,400
Ditto - of the Scinde Territory (so far as they are distinguished in the Statements received from India)	-	-	-	-	-	-	33,969	† 53,30,158
Marine and Pilotage Charges	-	-	-	-	17,37,818	21,35,192	18,63,687	21,57,921
Buildings, Roads and other Public Works, exclusive of Repairs	-	-	-	-	7,41,007	6,06,016	3,58,370	11,13,350
CHARGES OF PRINCE OF WALES' ISLAND, SINGAPORE and MALACCA:								
Prince of Wales' Island	Co.'s Rs. 2,39,009	Co.'s Rs. 2,88,621	Co.'s Rs. 3,13,947	Co.'s Rs. 3,06,132				
Singapore	2,00,554	2,17,523	2,40,274	2,33,420				
Malacca	1,15,171	1,05,989	1,00,842	99,602	5,54,734	6,12,133	6,55,063	6,39,154
Canton Financial Agency, Salaries and Contingencies (exclusive of Commission paid in England)	-	-	-	-	46,858	-	-	-
Military Charges (Bengal and Agra)	3,97,96,320	3,82,74,950	4,81,51,014	4,38,90,477	3,99,76,384	3,84,23,597	4,85,02,858	4,45,90,477
Ditto - Buildings	1,80,064	1,48,647	3,51,844	7,00,000	94,17,813	1,04,14,738	93,48,700	8,76,000
War Charges (exclusive of the Expedition to China, chargeable to Her Majesty's Government)	-	-	-	-	25,88,982	16,74,509	27,77,028	-
Mission and Measures for the support of Schah Soojah	-	-	-	-	7,28,00,578	7,56,80,668	8,15,50,863	7,19,80,658
Deduct, Amount of Unclaimed Deposits of Seven Years' standing, in the Judicial and Revenue Departments, credited to the Public Account	-	-	-	-	-	-	13,099	-
Add, Ditto - ditto - ditto - repaid	-	-	-	-	8,812	1,935	-	1,500
TOTAL CHARGES, exclusive of INTEREST ON DEBT					7,28,09,390	7,56,82,603	8,15,37,764	7,19,81,553
Interest on Debt	-	-	-	-	1,45,30,762	1,56,54,913	1,61,26,894	1,78,70,478
TOTAL CHARGES of the BENGAL PRESIDENCY					8,73,40,152	9,13,37,516	9,76,64,658	8,98,52,031
EXTRAORDINARY CHARGES consequent upon the Discharge of the 6 per Cent. Remittable Debt:								
The difference of Exchange on Bills drawn on the Court, in discharge of the 6 per cent. Remittable Debt; viz. between the rate of 2 s. 6 d. the Sicca Rupee, at which the Loan is repayable, and the established rate of 2 s. the Sicca Rupee, observed in these Accounts in the conversion of Sterling Money into Indian Currency					-	-	9,040	-
TOTAL EXTRAORDINARY CHARGES					-	-	9,040	-
TOTAL CHARGES - - - Rupees					8,73,40,152	9,13,37,516	9,76,73,698	8,98,52,031

ment of the North Western Provinces (late Agra Presidency), the Aggregate of Revenues and Charges of those Provinces, as shown in No. 3, is here inserted.

CHARGES.			SURPLUS in Bengal and North-Western Provinces.	Net Extraordinary Receipts from the Produce of the Commercial Assets.	NET SURPLUS in Bengal and the North-Western Provinces, including Produce of the Commercial Assets.	* This amount includes Rupees 30,31,594, adjustment for former years, principally on account of the Missions to Herat and Scinde, and expenses of Dost Mahomed Khan and family.
Bengal Presidency.	North-Western Provinces (late Agra Presidency.)	Total.				
Company's Rupees.	Company's Rupees.	Company's Rupees.	Company's Rupees.	Company's Rupees.	Company's Rupees.	† This sum includes Ru- pees 35,00,000 for War Charges and Commissariat. The Ordinary Military Charges are not included in it.
8,73,40,152	80,52,904	9,53,93,056	85,13,508	15,162	85,28,670	
9,13,37,516	85,81,495	9,99,19,011	1,14,18,172	40,766	1,14,58,938	
9,76,64,658	83,06,020	10,59,70,678	95,45,209	Excess } 1,732 ‡	95,43,477	
8,98,52,031	93,31,600	9,91,73,631	2,20,68,121	8,900	2,20,77,021	

‡ [Written in Red Ink in  
the MS.]

## No. 2.—AN ACCOUNT of the CASH TRANSACTIONS of the BENGAL PRESIDENCY, for

					1840/41.	1841/42.	1842/43.	Estimate 1843/44.
RECEIPTS:					Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Cash Balances in the several Treasuries of this Presidency on 30th April - - -					3,07,85,059	3,27,42,108	3,28,97,017	3,63,29,102
DEBT INCURRED:								
Loans at 4 and 5 per cent. - - -	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.				
Treasury Notes issued - - -	1,49,44,348	2,36,47,153	2,31,87,407	1,10,79,400				
Bills outstanding - - -	1,16,81,359	39,55,438	26,26,600	26,00,000				
Received on account of Civil and Military Funds - - -	1,40,87,301	1,79,20,498	1,89,53,711	1,47,00,000				
Miscellaneous Deposits - - -	37,44,502	35,02,519	36,53,697	35,20,600				
Tributes received applicable to the maintenance of Scindiah's reformed Contingent - - -	1,93,54,913	2,02,59,257	2,21,38,950	2,68,93,271				
	1,48,301	2,94,097	3,27,442	3,51,295				
TOTAL DEBT incurred - - -					6,39,60,724	6,95,78,962	7,08,87,807	5,91,44,566
Advances made by Government repaid, including Tuccavee Advances - - -					27,75,612	23,89,095	45,01,172	19,51,058
SUPPLIES from LONDON:								
Bills on the Court for Interest of India Debt - - -	4,15,930	5,14,247	5,24,637	5,50,700				
Other Bills on the Court - - -	26,414	34,441	1,89,916	1,26,592				
Dividends on Stock of the 5 per cent. Transfer Loan paid in England - - -	12,12,777	12,15,600	12,41,026	12,43,328				
Advances in England recovered in Bengal - - -	24,43,082	19,02,402	22,28,318	22,72,595				
Remittances from China in Bullion and Bills, to be adjusted with Her Majesty's Government in England - - -	-	70,09,669	-	30,35,952				
Miscellaneous, including other Credits to Her Majesty's Government - - -	2,01,655	61,653	7,64,490	13,92,600				
The difference of Exchange between the rate of 2 s. 6 d. the Sicca Rupee, at which the Bills drawn from India in liquidation of Remittable Debt were discharged from the Commercial Assets, and the fixed rate of 2 s. the Sicca Rupee made use of in the Company's Accounts for the conversion of the Indian currency into Sterling Money - - -	-	-	9,040	-				
Invoice value of Copper for Coinage - - -	1,62,431	92,161	2,85,217	3,00,000				
TOTAL SUPPLIES from LONDON - - -					44,62,289	1,08,30,173	52,42,644	89,21,767
SUPPLIES from the other PRESIDENCIES:								
NORTH-WESTERN PROVINCES:								
Treasure - - - - -	18,24,458	44,84,050	89,23,255	5,36,87,590				
Bills drawn - - - - -	3,18,55,871	3,15,17,044	3,85,18,754					
Advances and Disbursements on account of Bengal, and Miscellaneous - - -	1,02,58,014	46,24,912	67,09,931					
	4,39,38,343	4,06,26,006	5,41,51,940	5,36,87,500				
MADRAS:								
Treasure - - - - -	63,00,616	30,00,000	36,90,408	20,00,000				
Bills drawn - - - - -	2,37,008	7,67,632	10,54,528	9,61,570				
Stores - - - - -	1,46,157	10,269	24,024	-				
Indian Loans discharged - - - - -	-	13,34,903	65,165	-				
Advances and Disbursements on account of Bengal, and Miscellaneous - - -	31,49,020	34,18,164	35,33,205	45,53,660				
	98,32,801	85,30,968	83,67,330	75,15,230				
BOMBAY:								
Treasure - - - - -	12,28,476	38,51,009	34,82,403	70,00,000				
Bills drawn - - - - -	6,99,753	14,19,411	24,21,807	22,00,000				
Stores - - - - -	-	26,774	13,761	14,000				
Indian Loans discharged - - - - -	15,879	28,980	-	-				
Advances and Disbursements on account of Bengal, and Miscellaneous - - -	1,03,65,261	1,20,51,215	1,01,62,044	62,38,690				
	1,23,09,369	1,73,77,389	1,60,80,015	1,54,52,690				
TOTAL SUPPLIES from the other PRESIDENCIES - - -					6,60,80,513	6,65,34,363	7,85,99,285	7,66,55,420
GRAND TOTAL - - - Rupees					16,80,64,197	18,20,74,701	19,21,27,925	18,50,01,913

Three Years, according to the latest Advices, with an ESTIMATE of the same for the succeeding Year.

					1840/41.	1841/42.	1842/43.	Estimate, 1843/44.
P A Y M E N T S :					Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Deficit of Revenue, as shown in Account No. 1 - - - - -					2,09,83,405	2,20,44,171	2,44,10,231	1,13,39,679
DEBT DISCHARGED :								
	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.				
Loans at 4, 5 and 6 per cent. - -	32,70,094	2,57,580	1,74,900	—				
Treasury Notes - - -	1,07,36,446	40,42,453	58,00,345	25,80,000				
Bills outstanding - - -	1,80,65,054	1,93,02,403	2,12,21,628	1,72,62,527				
Payments on account of Civil and Military Funds - - -	27,93,113	29,66,385	29,57,153	29,54,776				
Miscellaneous Deposits - - -	1,83,10,407	1,85,90,471	2,11,50,771	2,19,49,012				
Expense of Scindiah's reformed Con- tingent, payable out of the Assigned Tributes - - -	3,20,721	5,36,668	4,34,733	4,27,000				
TOTAL DEBT discharged - - -					5,34,95,835	4,56,95,960	5,17,39,530	4,51,73,315
Advances made by Government repayable, including Tuccavee Advances - - -					22,83,628	34,25,460	58,74,878	19,78,415
SUPPLIES to LONDON :								
Bills drawn by the Court discharged -	1,68,14,631	2,08,03,479	1,22,87,490	2,21,86,669				
Bills on Her Majesty's Government transmitted - - -	1,81,861	96,477	8,84,400	14,86,000				
Advances made upon the security of Goods, repayable by Bills drawn in favour of the Court from Bengal -	58,46,800	84,42,141	27,76,681	33,00,000				
Miscellaneous, including net Gain by Exchange operations with reference to the fixed rate of 2 s. per Sicca Rupee - - -	11,61,620	8,04,526	8,18,556	8,09,400				
Supplies to Her Majesty's Government, including Charges on account of the Expedition to China, repayable in England - - -	48,99,021	47,79,035	1,21,48,170	51,62,605				
TOTAL SUPPLIES to LONDON - - -					2,89,03,933	3,49,25,658	2,89,15,297	3,29,44,674
SUPPLIES to the other PRESIDENCIES :								
NORTH WESTERN PROVINCES :								
Treasure - - - - -	43,23,666	86,75,283	96,93,200	1,96,06,066				
Bills paid - - - - -	22,75,996	29,30,902	31,48,132					
Stores - - - - -	24,664	14,956	12,949					
Subscriptions to Indian Loans - -	2,01,000	29,07,600	11,36,200					
Advances and disbursements on ac- count of Agra, and Miscellaneous -	32,36,974	24,21,683	28,81,213					
	1,00,62,300	1,69,50,424	1,68,71,694	1,96,06,066				
MADRAS :								
Treasure - - - - -	-	-	-	20,00,000				
Bills paid - - - - -	3,72,781	1,86,436	2,75,377	9,06,000				
Stores - - - - -	31,579	67,987	-	-				
Subscriptions to Indian Loans - -	25,00,500	45,81,296	41,89,600	16,90,000				
Advances and Disbursements on ac- count of Madras, and Miscellaneous }	38,47,489	43,56,889	45,31,859	51,34,434				
	67,52,349	91,92,608	89,96,836	97,30,434				
BOMBAY :								
Treasure - - - - -	30,07,066	25,00,535	20,00,668	21,60,952				
Bills paid - - - - -	62,46,783	38,78,123	49,38,620	1,74,444				
Stores - - - - -	3,083	10,712	-	41,320				
Subscriptions to Indian Loans - -	16,64,479	63,63,380	20,83,000	88,30,000				
Advances and Disbursements on ac- count of Bombay, and Miscellaneous }	19,19,228	41,90,653	79,68,069	57,57,108				
	1,28,40,639	1,69,43,403	1,69,90,357	1,69,63,824				
TOTAL SUPPLIES to the other PRESIDENCIES - - -					2,96,55,288	4,30,86,435	4,28,58,887	4,63,00,324
TOTAL - - -					13,53,22,089	14,91,77,684	15,37,98,823	13,77,36,407
CASH BALANCES in the several Treasuries, 30th April - - -					3,27,42,108	3,28,97,017	3,83,29,102	4,72,65,506
GRAND TOTAL - - - Rupees					16,80,64,197	18,20,74,701	19,21,27,925	18,50,01,913



**No. 3.—AN ACCOUNT of the REVENUES and CHARGES of the NORTH-WESTERN**  
with an Estimate of the same

	1840/41.	1841/42.	1842/43.	Estimate, 1843/44.
<b>REVENUES:</b>				
Post-office Collections - - - - -	Co.'s Rs. 3,96,279	Co.'s Rs. 4,35,229	Co.'s Rs. 4,68,834	Detailed Estimate not yet received in England.
Stamp Duties - - - - -	11,76,166	12,73,237	11,55,382	
Judicial Fees and Fines - - - - -	1,32,400	1,50,425	1,50,134	
Miscellaneous Civil Receipts - - - - -	58,901	53,154	73,644	
Land Revenue - - - - -	3,78,13,442	4,31,06,135	4,45,60,952	
Sayer and Abkarry - - - - -	18,99,185	19,57,834	20,56,632	
Miscellaneous Receipts in the Revenue Department - - - - -	2,56,334	2,54,124	1,97,498	
Customs - - - - -	20,89,991	19,39,363	18,84,892	
Receipts from Salt - - - - -	24,73,226	27,10,953	25,37,057	
Interest on Arrears of Revenue, &c. - - - - -	966	2,566	18,230	
<b>TOTAL GROSS REVENUES - - -</b>	<b>4,62,95,890</b>	<b>5,18,83,020</b>	<b>5,31,03,255</b>	<b>5,19,43,000</b>
Deduct, Allowances and Assignments payable out of the Revenues, in accordance with Treaties or other Engagements, including those of the King of Delhi - - - - -	38,46,628	39,24,884	50,48,918	40,67,000
<b>CHARGES of collecting the REVENUES:</b>	<b>4,24,49,262</b>	<b>4,79,58,136</b>	<b>4,80,54,337</b>	<b>4,78,76,000</b>
Charges of collecting the Stamp Duties - - - - -	Co.'s Rs. 49,518	Co.'s Rs. 56,273	Co.'s Rs. 1,60,253	Detailed Estimate not yet received in England.
Ditto - - - - Land and Sayer Revenues - - - - -	41,57,283	51,55,976	50,03,445	
Ditto - - - - Customs - - - - -	6,47,870	6,32,152	6,00,585	
Ditto - - - - Salt - - - - -	29,612	29,131	30,326	
<b>NET REVENUES, after payment of Allowances and Assignments, and Charges of Collection - - - - - Rupees</b>	<b>3,75,64,979</b>	<b>4,20,84,604</b>	<b>4,22,59,728</b>	<b>4,27,38,300</b>

*Note.*—The Military Charges of the North-Western Provinces

**No. 4.—AN ACCOUNT of the CASH TRANSACTIONS of the NORTH-WESTERN**  
with an Estimate of the same

	1840/41.	1841/42.	1842/43.	Estimate, 1843/44.
<b>RECEIPTS:</b>				
Cash Balances in the several Treasuries on the 30th April - - - - -	Co.'s Rs. 1,93,84,081	Co.'s Rs. 1,58,28,347	Co.'s Rs. 1,64,93,940	Co.'s Rs. 1,69,52,738
Surplus Revenue, as shown in Account No. 3 - - - - -	2,95,12,075	3,35,03,109	3,39,53,708	3,34,16,700
<b>DEBT INCURRED:</b>				
Temporary Loans - - - - -	Co.'s Rs. 10,39,535	Co.'s Rs. 70,000	Co.'s Rs. 21,84,770	Co.'s Rs. 1,48,000
Bills outstanding - - - - -	74,81,262	19,66,815	27,57,995	—
Miscellaneous Deposits - - - - -	1,26,80,932	1,01,92,780	1,06,42,437	92,48,000
Tributes received applicable to the maintenance of Scindiah's reformed Contingent - - - - -	79,328	48,592	68,536	—
Ditto - - ditto - - adjustment of previous years - - - - -	2,75,926	—	—	—
<b>TOTAL DEBT INCURRED - - -</b>	<b>2,15,56,983</b>	<b>1,22,78,187</b>	<b>1,56,53,738</b>	<b>93,96,000</b>
Advances made by Government repaid, including Tuccavee Advances - - - - -	56,27,293	45,96,169	72,74,193	70,000
Supplies from London (Miscellaneous) - - - - -	9,152	10,830	2,880	—
<b>SUPPLIES from the other PRESIDENCIES:</b>				
<b>BENGAL:</b>				
Treasure - - - - -	47,29,960	95,39,138	1,11,20,752	1,96,06,066
Bills drawn - - - - -	23,55,688	29,03,424	33,24,000	
Stores - - - - -	—	27,290	32,711	
Subscriptions received to Indian Loans	2,01,000	29,07,600	11,36,250	
Advances and Disbursements on ac- count of the North-Western Pro- vinces, and Miscellaneous - - - - -	32,81,817	28,64,085	25,67,901	
	1,05,68,465	1,82,41,537	1,81,81,614	1,96,06,066
<b>MADRAS:</b>				
Bills drawn - - - - -	—	618	131	2,000
Miscellaneous - - - - -	—	642	1,638	
	—	1,260	1,769	2,000
<b>BOMBAY:</b>				
Bills drawn - - - - -	9,708	28,976	38,279	2,90,000
Advances and Disbursements on ac- count of the North-Western Pro- vinces, and Miscellaneous - - - - -	4,01,995	1,66,894	6,11,927	
	4,11,703	1,95,370	6,50,206	
<b>TOTAL SUPPLIES from the other PRESIDENCIES - -</b>	<b>1,09,80,168</b>	<b>1,84,38,167</b>	<b>1,88,33,589</b>	<b>1,96,28,066</b>
<b>GRAND TOTAL - - - Rupees</b>	<b>8,70,69,752</b>	<b>8,46,54,809</b>	<b>9,22,12,048</b>	<b>7,96,63,504</b>

PROVINCES (late AGRA PRESIDENCY), for Three Years, according to the latest Advices, for the succeeding Year.

	1840/41.	1841/42.	1842/43.	Estimate, 1843/44.
<b>CHARGES:</b>				
<b>CIVIL and POLITICAL:</b>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>
Post-office Charges - - - - -	4,24,075	4,49,700	4,90,272	Detailed Estimate not yet received in England.
Charges of the Civil and Political Establishments, including Contingent Charges - -	13,00,969	15,77,687	19,20,330	
	17,25,044	20,27,387	24,10,602	
<b>JUDICIAL and POLICE:</b>				
Charges of the Sudder Provincial and Zillah Courts - - - - -	39,86,569	41,87,263	39,71,639	Detailed Estimate not yet received in England.
Provincial Police - - - - -	13,15,394	13,26,031	14,24,330	
<b>TOTAL JUDICIAL and POLICE CHARGES - - -</b>	<b>53,01,963</b>	<b>55,13,294</b>	<b>53,95,969</b>	
Buildings, Roads and other Public Works, exclusive of Repairs - - - - -	9,69,478	8,38,991	4,65,775	
Deduct,	79,96,485	83,79,672	82,72,346	
Amount of Unclaimed Deposits of Seven Years' standing in the Judicial and Revenue Departments, credited to the Public Account - - - - -	29,715	40,812	1,15,042	
<b>TOTAL CHARGES, exclusive of INTEREST on DEBT - - -</b>	<b>79,66,770</b>	<b>83,38,860</b>	<b>81,57,304</b>	
Interest on Debt - - - - -	86,134	2,42,635	1,48,716	
<b>TOTAL CHARGES - - -</b>	<b>80,52,904</b>	<b>85,81,495</b>	<b>83,06,020</b>	<b>93,21,600</b>
<b>AGRA SURPLUS - - -</b>	<b>2,95,12,075</b>	<b>3,35,03,109</b>	<b>3,39,53,708</b>	<b>3,34,16,700</b>
<b>Rupees</b>	<b>3,75,64,979</b>	<b>4,20,84,604</b>	<b>4,22,59,728</b>	<b>4,27,38,300</b>

(late Agra Presidency) are included amongst the Military Charges of Bengal.

PROVINCES (late AGRA PRESIDENCY), for Three Years, according to the latest Advices, for the succeeding Year.

	1840/41.	1841/42.	1842/43.	Estimate, 1843/44.
<b>PAYMENTS:</b>				
<b>DEBT DISCHARGED:</b>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>
Temporary Loans - - - - -	9,55,600	1,55,135	24,03,750	27,00,000
Bills outstanding - - - - -	16,44,750	74,81,262	19,66,815	4,26,125
Miscellaneous Deposits - - - - -	94,78,239	1,22,23,028	1,03,19,924	1,03,91,000
Expense of Scindiah's reformed Contingent, payable out of the assigned Tributes - - - - -	17,791	11,000	10,759	—
Ditto - - ditto - - adjustment of previous years - - - - -	11,80,949	—	—	—
<b>TOTAL DEBT DISCHARGED - - -</b>	<b>1,32,77,329</b>	<b>1,98,70,425</b>	<b>1,47,01,248</b>	<b>1,35,17,125</b>
Advances made by Government repayable, including Tuccavee Advances - - -	45,13,017	36,50,932	59,63,024	90,000
Supplies to London (Miscellaneous) - - - - -	3,534	3,459	—	—
<b>SUPPLIES to the other PRESIDENCIES:</b>				
<b>BENGAL:</b>				
Treasure - - - - -	31,91,332	44,22,433	93,23,515	5,36,87,500
Bills paid - - - - -	3,54,58,972	3,27,26,260	3,64,72,232	
Interest on India Debt - - - - -	12,33,408	8,13,716	9,23,261	
Advances and Disbursements on account of Bengal, and Miscellaneous } 1,07,43,944	48,66,312	63,93,257		
	5,06,27,656	4,28,28,721	5,31,12,265	5,36,87,500
<b>MADRAS:</b>				
Bills paid - - - - -	5,79,365	6,41,279	3,68,079	4,97,000
Advances and Disbursements on account of Madras, and Miscellaneous } 73,270	78,104	87,541		
	6,52,635	7,19,383	4,55,620	4,97,000
<b>BOMBAY:</b>				
Bills paid - - - - -	1,367	476	—	10,03,500
Advances and Disbursements on account of Bombay, and Miscellaneous } 21,65,867	10,87,473	10,37,153		
	21,67,234	10,87,949	10,27,153	10,03,500
<b>TOTAL SUPPLIES to the other PRESIDENCIES - - -</b>	<b>5,84,47,525</b>	<b>4,46,36,053</b>	<b>5,45,95,038</b>	<b>5,51,87,000</b>
<b>TOTAL - - -</b>	<b>7,12,41,405</b>	<b>6,81,60,869</b>	<b>7,52,59,310</b>	<b>6,87,94,125</b>
<b>CASH BALANCES in the several Treasuries on 30th April - - - - -</b>	<b>1,58,28,347</b>	<b>1,64,93,940</b>	<b>1,69,52,738</b>	<b>1,08,69,379</b>
<b>GRAND TOTAL - - - Rupees</b>	<b>8,70,69,752</b>	<b>8,46,54,809</b>	<b>9,22,12,048</b>	<b>7,96,63,504</b>

## No. 5.—AN ACCOUNT of the REVENUES and CHARGES of the MADRAS

					1840/41.	1841/42.	1842/43.	1843/44.
REVENUES:					Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Mint Duties - - - - -					8,475	10,116	18,971	23,944
Post-office Collections - - - - -					3,27,259	3,52,449	3,78,121	4,00,613
Stamp Duties - - - - -					4,99,822	4,76,145	4,75,468	4,46,161
Miscellaneous Civil Receipts, including net Gain by Exchange Operations between India and England - - - - -					1,72,116	2,42,283	2,45,210	4,80,389
Judicial Fees and Fines - - - - -					2,24,908	2,19,654	2,37,505	2,44,978
Land Revenue - - - - -					3,27,90,857	3,29,45,968	3,27,40,723	3,26,37,341
Abkarry and small Farms and Licenses - - - - -					18,84,332	19,43,541	20,97,330	22,48,630
Moturpha - - - - -					10,24,825	10,40,864	10,96,100	11,06,701
Miscellaneous Receipts in the Revenue Department - - - - -					2,13,813	2,06,451	6,61,682	1,77,109
Customs - - - - -					42,76,345	41,57,915	42,76,720	42,35,452
Sale of Tobacco - - - - -					8,27,441	8,11,373	9,48,424	8,41,001
Sale of Salt - - - - -					37,80,520	39,92,395	39,97,619	43,21,604
Marine Duties - - - - -					1,39,653	1,50,468	1,02,596	62,025
Profits of the Madras Government Bank - - - - -					1,29,594	1,55,885	1,44,692	69,568
Subsidies from Mysore, Travancore and Cochin - - - - -					34,46,431	34,46,431	34,46,431	34,46,430
TOTAL GROSS REVENUES - - - Rupees					4,97,46,391	5,01,51,938	5,08,67,592	5,07,41,946
Deduct, Allowances and Assignments payable out of the Revenues, in accordance with Treaties or other Engagements, including those of the Nabob of the Carnatic, the Rajah of Tanjore, and the Mysore Princes - - - - -	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.				
	52,83,713	52,05,704	54,11,671	52,32,937				
Petty Claims on the Carnatic discharged, and Salary and Establishment of the extra Commissioner - - - - -	- - -	2,474	—	—				
Sinking Fund for the redemption of the Bonds issued to the Creditors of the late Rajah of Tanjore - - - - -	- - -	2,81,189	2,81,189	2,81,189				
Interest and Charges paid on the Bonds issued to the Creditors of the late Rajah of Tanjore - - - - -	2,41,704	3,47,589	2,21,166	2,17,118				
					55,25,417	58,36,956	59,14,026	57,31,244
CHARGES of collecting the REVENUES, including Cost of SALT and TOBACCO:					4,42,20,974	4,43,14,982	4,49,53,566	4,50,10,702
Charges of collecting the Stamp Duties	52,640	52,153	50,042	50,261				
Ditto Land, Abkarry and Moturpha Revenues - - - - -	46,96,948	45,95,804	46,50,630	51,68,680				
Ditto Customs - - - - -	5,03,234	5,09,295	5,05,247	5,12,787				
Cost and Charges of Tobacco - - - - -	2,00,448	1,92,096	2,52,200	2,71,716				
Ditto of Salt - - - - -	7,58,715	6,30,589	7,86,660	5,85,960				
					62,11,985	59,79,937	62,44,779	65,89,404
TOTAL NET REVENUES, after payment of Allowances and Assignments, and Charges of Collection - - - - -					3,80,08,989	3,83,35,045	3,87,08,787	3,84,21,298
EXTRAORDINARY RECEIPTS, from the Produce of the Commercial Assets (Act 3 & 4 Will. 4, c. 85, s. 1 & 4):								
Net Sale Produce of Goods and Dead Stock - - - - -					Excess Charges 1,117	235	—	—
TOTAL REVENUES and RECEIPTS - - - Rupees					3,80,07,872	3,83,35,280	3,87,08,787	3,84,21,298

## PRESIDENCY, for Four Years, according to the latest Advices.

CHARGES:					1840/41.	1841/42.	1842/43.	1843/44.
CIVIL and POLITICAL:					Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Mint Charges	-	-	-	-	68,475	1,00,277	1,40,042	1,16,999
Post-office ditto	-	-	-	-	3,92,816	3,98,637	3,96,672	3,92,197
Charges of the Civil and Political Establishments, including Contingent Charges	-	-	-	-	32,57,100	33,02,554	33,22,348	31,70,239
<b>TOTAL CIVIL and POLITICAL CHARGES</b>	-	-	-	-	<b>37,18,391</b>	<b>38,01,468</b>	<b>38,59,062</b>	<b>36,79,435</b>
JUDICIAL and POLICE:								
Charges of the Queen's Supreme Court, and the other Local Courts within its Jurisdiction, including Law Charges	-	-	-	-	4,03,837	4,02,566	4,57,301	4,63,713
Ditto of the Sudder, Circuit and Zillah Courts	-	-	-	-	24,51,125	24,55,199	23,20,922	22,09,367
Provincial Police	-	-	-	-	6,66,370	7,04,550	7,87,134	7,85,562
<b>TOTAL JUDICIAL and POLICE CHARGES</b>	-	-	-	-	<b>35,21,332</b>	<b>35,62,315</b>	<b>35,65,357</b>	<b>34,58,642</b>
Marine Charges	-	-	-	-	94,486	1,71,589	1,29,105	61,290
Buildings, Roads, and other Public Works, exclusive of Repairs	-	-	-	-	1,60,774	1,32,175	2,85,313	84,446
Military Charges	-	-	-	-	2,76,61,356	2,75,31,459	2,76,11,531	2,77,29,092
Ditto Buildings	-	-	-	-	60,827	57,096	55,564	77,304
					2,77,22,183	2,75,88,555	2,76,67,095	2,78,06,396
<b>TOTAL CHARGES, exclusive of INTEREST on DEBT</b>	-	-	-	-	<b>3,52,17,166</b>	<b>3,52,56,102</b>	<b>3,55,05,932</b>	<b>3,50,90,309</b>
Interest on Debt	-	-	-	-	5,38,302	5,51,819	5,55,750	5,63,903
<b>TOTAL CHARGES</b>	-	-	-	-	<b>3,57,55,468</b>	<b>3,58,07,921</b>	<b>3,60,61,682</b>	<b>3,56,54,112</b>
<b>MADRAS SURPLUS</b>	-	-	-	-	<b>22,52,404</b>	<b>25,27,359</b>	<b>26,47,105</b>	<b>27,67,186</b>
<b>Rupees</b>					<b>3,80,07,872</b>	<b>3,83,35,280</b>	<b>3,87,08,787</b>	<b>3,84,21,298</b>

## No. 6.—AN ACCOUNT of the CASH TRANSACTIONS of the MADRAS

					1840/41.	1841/42.	1842/43.	1843/44.
<b>RECEIPTS:</b>					<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>	<i>Co.'s Rs.</i>
Cash Balances in the several Treasuries of this Presidency on 30th April	-	-	-	-	2,13,42,285	2,17,95,408	2,12,64,649	2,31,77,057
Surplus of Revenue, as shown in Account No. 5	-	-	-	-	22,52,404	25,27,359	26,47,105	27,67,186
<b>DEBT INCURRED:</b>								
Received on account of Civil and Military Funds	<i>Co.'s Rs.</i> 24,56,139	<i>Co.'s Rs.</i> 31,21,835	<i>Co.'s Rs.</i> 27,47,814	<i>Co.'s Rs.</i> 26,46,848				
Government Bank	-	98,753	—	—				
Receipts on account of the Bank of Madras, and transactions of the late Government Bank	-	-	21,04,415	72,09,715				
Miscellaneous Deposits	59,59,419	69,28,821	74,75,429	73,10,600				
Bills outstanding	-	4,67,601	5,44,464	1,26,989				
Floating Balance	8,012	4,79,959	—	—				
Sinking Fund (and Interest thereon) for the redemption of the Bonds issued to the Creditors of the late Rajah of Tanjore	-	2,89,625	3,00,873	3,12,120				
<b>TOTAL DEBT incurred</b>					84,23,570	1,13,76,594	1,31,72,995	1,76,06,272
Advances made by Government repaid, including Tuccavee Advances	-	-	-	-	11,89,504	10,45,066	11,97,339	10,46,023
<b>SUPPLIES from LONDON:</b>								
Bills on the Court for Interest of India Debt	1,62,601	1,61,461	1,44,934	1,48,743				
Bills on the Court for Principal of India Debt	-	-	35,400	—				
Bills on the Court for Interest on Claims on the late Rajah of Tanjore	12,883	11,526	12,312	26,032				
Other Bills on the Court	1,16,475	4,468	9,304	6,175				
Advances in England repaid	15,92,018	19,19,093	17,85,625	19,41,271				
Miscellaneous, including Credits to Her Majesty's Government	3,25,635	18,750	73,339	94,619				
<b>TOTAL SUPPLIES from LONDON</b>					22,09,612	21,15,298	20,60,914	22,16,840
<b>SUPPLIES from the other PRESIDENCIES:</b>								
<b>BENGAL:</b>								
Treasure	-	-	-	20,00,000				
Bills drawn	3,68,495	1,58,768	2,73,846	11,69,213				
Stores	60,578	1,93,487	1,24,640	3,17,011				
Subscriptions received to Indian Loans	38,44,500	32,40,996	41,89,600	26,29,529				
Advances and Disbursements on account of Madras	33,05,335	38,38,990	41,18,872	47,02,845				
Miscellaneous	1,99,896	1,01,391	46,619	—				
	77,78,804	75,33,632	87,53,577	1,08,18,598				
SUPPLIES from PRINCE OF WALES' ISLAND	4,46,941	4,34,159	3,34,330	4,23,488				
	82,25,745	79,67,791	90,87,907	1,12,42,086				
<b>NORTH-WESTERN PROVINCES:</b>								
Bills drawn	2,44,660	2,49,259	1,48,000	1,70,637				
Advances and Disbursements on account of Madras	4,26,383	4,21,342	2,95,942	41,910				
Miscellaneous	12,206	3,967	—	—				
	6,83,249	6,74,568	4,43,942	2,12,547				
<b>BOMBAY:</b>								
Treasure	-	-	-	11,82,539				
Bills drawn	1,41,645	80,537	51,486	46,576				
Stores	40,926	4,845	2,50,275	84,601				
Advances and Disbursements on account of Madras	26,48,731	26,61,808	25,43,809	7,10,161				
Miscellaneous	19,707	6,261	17,072	—				
	28,51,009	27,53,451	28,62,642	20,23,876				
<b>TOTAL SUPPLIES from the other PRESIDENCIES</b>					1,17,60,003	1,13,95,810	1,23,94,491	1,34,78,509
<b>GRAND TOTAL</b> - - - Rupees					4,71,77,378	5,02,55,535	5,27,37,493	6,02,91,887

## PRESIDENCY, for Four Years, according to the latest Advices.

					1840/41.	1841/42.	1842/43.	1843/44.
P A Y M E N T S :					Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
DEBT DISCHARGED :								
Promissory Notes - - - -	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.				
	2,23,696	7,621	1,091	500				
Bills outstanding - - - -	3,81,328	-	-	83,535				
Floating Balance - - - -	-	-	4,26,618	3,72,081				
Payments on account of Civil and Military Funds - - - -	26,08,426	26,14,263	32,40,358	19,42,312				
Miscellaneous Deposits - - -	56,97,787	68,14,128	72,27,038	72,15,624				
Government Bank - - - -	1,27,664	1,55,885	1,44,691	-				
Payments on account of the Bank of Madras, and transactions of the late Government Bank - -	-	-	-	85,04,883				
TOTAL DEBT discharged - - -					90,38,901	95,91,897	1,10,39,796	1,81,18,935
Advances repayable, including Tuccavee Advances - - - - -	-	-	-	-	7,23,987	8,12,955	5,74,049	13,70,155
Shares of the East India Company in the Capital Stock of the Bank of Madras (Act of the Government of India, No. 9, of 1843, s. 3 and 5.) - - - - -	-	-	-	-	-	-	-	3,00,000
SUPPLIES to LONDON :								
Bills drawn by the Court, discharged -	6,90,023	11,56,865	6,35,976	20,56,177				
Miscellaneous (including net Gain by Exchange Operations with reference to the fixed rate of 2/8' Sicca Rupee) }	1,59,565	1,79,099	1,76,966	2,09,657				
Supplies to Her Majesty's Government	2,63,002	46,060	1,25,143	93,187				
Paid, with Interest, the consideration for certain Bills drawn in favour of the Court, the amount of which was realized in England - - }	-	-	-	3,05,414				
Advances made upon Security of Goods repayable by Bills drawn in favour of the Court - - - }	54,270	1,02,159	-	16,575				
TOTAL SUPPLIES to LONDON - - - -					11,66,860	14,84,183	9,38,085	26,81,010
SUPPLIES to the other PRESIDENCIES :								
BENGAL :								
Treasure - - - - -	63,00,616	45,01,339	22,00,000	20,00,000				
Bills paid - - - - -	1,48,322	2,68,906	9,53,293	3,79,485				
Stores - - - - -	2,68,734	3,10,789	62,889	76,749				
Indian Loans discharged - - -	2,00,000	11,34,903	65,165	8,029				
Interest on India Debt - - -	19,18,913	21,51,680	21,46,408	24,17,888				
Advances and Disbursements on account of Bengal, and Miscellaneous }	12,65,951	20,14,792	23,13,192	21,49,669				
	1,01,22,536	1,03,82,409	77,40,947	70,32,015				
SUPPLIES to PRINCE of WALES' ISLAND - - - - - }	2,36,754	1,72,377	2,14,127	1,60,442				
	1,03,59,290	1,05,54,786	79,55,974	71,92,457				
NORTH WESTERN PROVINCES :								
Bills paid - - - - -	-	-	33	97				
Miscellaneous - - - - -	-	855	-	2,533				
	-	855	33	2,630				
BOMBAY :								
Treasure - - - - -	28,16,016	46,91,545	57,89,000	22,02,286				
Bills paid - - - - -	6,69,037	13,45,525	18,44,514	32,19,087				
Stores - - - - -	2,46,690	1,21,068	10,32,019	4,85,622				
Advances and Disbursements on account of Bombay, and Miscellaneous }	3,61,189	3,88,072	3,87,866	3,15,219				
	40,92,932	65,46,210	90,53,399	62,22,214				
TOTAL SUPPLIES to the other Presidencies - - -					1,44,52,222	1,71,01,851	1,70,08,506	1,34,17,301
TOTAL - - -					2,53,81,970	2,89,90,886	2,95,60,436	3,58,87,401
CASH BALANCES in the several Treasuries on 30th April - - -					2,17,95,408	2,12,64,649	2,31,77,057	2,44,04,486
GRAND TOTAL - - - Rupees					4,71,77,378	5,02,55,535	5,27,37,493	6,02,91,887

## No. 7.—AN ACCOUNT of the REVENUES and CHARGES of the BOMBAY

					1840/41.	1841/42.	1842/43.	1843/44.
REVENUES:					Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Mint Duties - - - - -	-	-	-	-	2,99,453	3,37,964	2,11,943	5,09,675
Post-office Collections - - - - -	-	-	-	-	1,78,051	1,88,785	2,08,676	2,21,316
Stamp Duties - - - - -	-	-	-	-	4,85,171	5,08,030	4,99,263	5,14,406
Miscellaneous Civil Receipts, including net Gain by Exchange Operations between India and England - - - - -	-	-	-	-	53,409	1,98,123	3,65,567	73,058
Judicial Fees and Fines - - - - -	-	-	-	-	95,512	82,472	76,410	1,32,278
Land Revenue - - - - -	-	-	-	-	1,78,85,465	1,81,44,437	2,02,51,088	2,02,50,953
Sayer - - - - -	-	-	-	-	13,79,633	13,45,383	14,24,368	14,98,105
Miscellaneous Receipts in the Revenue Department - - - - -	-	-	-	-	-	-	92,370	54,418
Customs - - - - -	-	-	-	-	33,23,819	32,18,079	34,79,026	38,42,374
Receipts from Salt - - - - -	-	-	-	-	15,90,854	15,01,731	16,83,005	18,60,563
Sale of Opium Passes and Opium - - - - -	-	-	-	-	23,36,399	22,24,727	25,97,009	35,59,870
Marine and Dock Dues - - - - -	-	-	-	-	2,11,220	1,97,600	1,65,533	2,40,009
Subsidy from the Cutch Government - - - - -	-	-	-	-	2,50,000	93,475	1,68,755	2,98,620
TOTAL GROSS REVENUES - - -					2,80,78,986	2,80,40,806	3,12,23,013	3,30,55,645
Deduct,—	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.				
Allowances and Assignments payable out of the Revenues, in accordance with Treaties or other Engagements, including those of the Ex-Paishwa and his Minister - - - - -	17,02,071	17,22,917	12,26,377	15,76,665				
Allowances to Village Officers and Enamdars - - - - -	33,35,257	40,11,841	49,86,634	51,96,208				
					50,37,328	57,34,758	62,13,011	67,72,873
CHARGES of collecting the REVENUES, including Cost of SALT and OPIUM:					2,30,41,658	2,23,06,048	2,50,10,002	2,62,82,772
Charges of collecting the Stamp Duties	34,510	34,392	35,805	34,237				
Ditto - Land and Sayer Revenues -	29,32,448	29,72,525	34,76,517	37,77,001				
Ditto - Customs - - - - -	3,64,286	3,88,263	3,71,436	4,07,697				
Ditto - Opium Receipts - - -	79,947	75,738	54,627	71,090				
Ditto - Salt Receipts - - -	1,32,636	1,59,130	1,57,666	1,60,984				
					35,43,827	36,29,948	40,96,051	44,51,009
TOTAL NET REVENUES, after Payment of Allowances and Assignments, and Charges of Collection - - -					1,94,97,831	1,86,76,100	2,09,13,951	2,18,31,763
BOMBAY DEFICIT - - -					14,76,885	26,04,675	3,29,040	16,78,861
Rupees					2,09,74,716	2,12,80,775	2,12,42,991	2,35,10,624

## PRESIDENCY, for Four Years, according to the latest Advices.

	1840/41.	1841/42.	1842/43.	1843/44.
	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
<b>CHARGES:</b>				
<b>CIVIL and POLITICAL:</b>				
Mint Charges - - - - -	2,09,612	1,86,076	2,13,748	1,89,566
Post-office ditto - - - - -	2,94,991	3,12,433	3,84,769	3,58,670
Charges of Civil and Political Establishments, including Contingent Charges - - -	36,05,310	33,51,617	32,50,381	32,55,829
<b>TOTAL CIVIL and POLITICAL CHARGES - - -</b>	<b>41,09,913</b>	<b>38,50,126</b>	<b>38,48,898</b>	<b>38,04,065</b>
<b>JUDICIAL and POLICE:</b>				
Charges of the Queen's Supreme Court, and the other Local Courts within its Jurisdiction, } including Law Charges - - - - -	4,54,210	4,41,227	4,17,291	4,86,187
Ditto of the Sudder and Zillah Courts - - - - -	20,03,949	19,68,547	19,33,449	19,52,917
<b>TOTAL JUDICIAL and POLICE CHARGES - - -</b>	<b>24,58,159</b>	<b>24,09,774</b>	<b>23,50,740</b>	<b>24,39,104</b>
<b>Indian Navy and Marine Charges - - - - -</b>				
Buildings, Roads and other Public Works, exclusive of Repairs (Civil) - - - -	4,46,333	5,41,543	3,23,120	2,61,678
<b>Military Charges - - - - -</b>				
	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Military Charges - - - - -	1,15,05,613	1,32,87,421	1,28,01,981	1,49,47,936
Ditto - Buildings - - - - -	1,19,017	94,622	65,461	41,045
	1,16,24,630	1,23,82,043	1,28,67,442	1,49,88,981
<b>TOTAL CHARGES, exclusive of Interest on Debt - - -</b>	<b>2,03,76,408</b>	<b>2,06,54,989</b>	<b>2,07,17,057</b>	<b>2,29,38,495</b>
Interest on Debt - - - - -	5,98,308	6,25,786	5,25,934	5,72,129
<b>TOTAL CHARGES - - - Rupees</b>	<b>2,09,74,716</b>	<b>2,12,80,775</b>	<b>2,12,42,991</b>	<b>2,35,10,624</b>



## No. 8.—AN ACCOUNT of the CASH TRANSACTIONS of the BOMBAY

					1840/41.	1841/42.	1842/43.	1843/44.
RECEIPTS:					Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Cash Balances in the several Treasuries of this Presidency, 30th April - - - -					2,31,37,325	1,89,52,131	1,29,03,961	1,98,54,853
DEBT INCURRED:								
	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.				
Treasury Notes issued - - -	11,54,900	-	3,000	—				
Temporary Loan from the Bank of Bombay - - - - -	50,00,000	—	—	—				
Received on account of Civil and Military Funds - - - - -	14,12,701	15,81,587	15,66,193	15,29,346				
Miscellaneous Deposits - - -	6,49,085	5,93,615	38,19,688	40,54,658				
TOTAL DEBT incurred - - -					82,16,686	21,75,202	53,88,881	55,84,004
Advances made by Government repaid, including Tuccavee Advances - - - -					1,04,76,910	81,24,814	13,50,859	37,68,802
SUPPLIES from LONDON:								
Bills on the Court for Interest of India Debt - - - - -	1,33,035	1,21,310	1,11,712	1,10,990				
Other Bills on the Court - - -	12,642	7,119	21,504	31,535				
Advances in England repaid - - -	8,43,011	8,38,187	8,89,275	9,18,034				
Miscellaneous, including Credits to Her Majesty's Government - - - -	1,23,090	1,09,313	2,10,281	1,46,695				
Invoice Value of Copper for Coinage -	4,18,629	-	99,512	—				
TOTAL SUPPLIES from London - - -					15,30,407	10,75,929	13,32,284	12,07,254
SUPPLIES from the other PRESIDENCIES:								
BENGAL:								
Treasure - - - - -	-	30,06,668	25,00,001	63,79,550				
Bills drawn - - - - -	66,06,078	38,32,693	46,04,475	14,372				
Stores - - - - -	1,24,345	89,578	57,001	74,538				
Subscriptions received to Indian Loans	16,63,510	63,60,380	20,86,000	1,10,01,000				
Advances and Disbursements on account of Bombay - - - - -	16,13,779	98,63,835	84,76,068	53,26,400				
Miscellaneous - - - - -	18,736	—	—	—				
	1,00,26,448	2,31,53,154	1,77,23,545	2,27,95,860				
SUPPLIES from the Eastern Settlements	21,311	23,275	—	—				
	1,00,47,759	2,31,76,429	1,77,23,545	2,27,95,860				
NORTH-WESTERN PROVINCES:								
Treasure - - - - -	-	23,00,004	—	—				
Bills drawn - - - - -	7,500	5,000	4,000	7,600				
Advances and Disbursements on account of Bombay, and Miscellaneous - - -	9,52,494	10,12,607	4,69,419	8,42,351				
	9,59,994	33,17,611	4,73,419	8,49,951				
MADRAS:								
Treasure - - - - -	41,07,886	42,17,542	96,24,879	46,24,695				
Stores - - - - -	2,27,816	72,617	2,667	1,878				
Advances and Disbursements on account of Bombay, and Miscellaneous - - -	3,72,565	5,66,891	4,82,081	3,82,864				
	47,08,267	48,57,050	1,01,09,627	50,09,437				
TOTAL SUPPLIES from the other PRESIDENCIES - - -					1,57,16,020	3,13,51,090	2,83,06,591	2,86,55,248
GRAND TOTAL - - - Rupees					5,90,77,348	6,16,79,166	4,92,82,576	5,90,70,161

## PRESIDENCY, for Four Years, according to the latest Advices.

					1840/41.	1841/42.	1842/43.	1843/44.
P A Y M E N T S :					Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Deficit of Revenue, as shown in Account, No. 7 - - - - -					14,76,885	26,04,675	3,29,040	16,78,861
DEBT DISCHARGED :								
	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.				
Treasury Notes - - - - -	5,85,200	4,81,700	33,500	500				
Temporary Loan from Bank of Bombay - - - - -	10,01,000	39,98,000	—	—				
Payments on account of Civil and Military Funds - - - - -	10,32,359	10,43,447	10,44,710	10,75,047				
Miscellaneous Deposits - - - - -	48,43,248	10,56,973	21,36,927	33,35,605				
TOTAL DEBT discharged - - -					74,61,807	65,80,120	32,15,137	44,11,152
Advances repayable, including Tuccavee Advances - - - - -					83,63,367	1,26,57,750	30,97,297	10,55,062
SUPPLIES to LONDON :								
Bills drawn by the Court discharged -	6,74,887	14,22,967	5,38,819	3,02,072				
Advances made upon Security of Goods, repayable by Bills drawn in favour of the Court - - -	1,11,833	12,76,919	9,33,805	7,10,777				
Miscellaneous, including Debits to Her Majesty's Government, and net Gain by Exchange Operations with reference to the fixed rate of 2 s. per Sicca Rupee - - -	2,64,800	4,60,830	3,93,770	1,88,995				
TOTAL SUPPLIES to LONDON - - -					10,51,520	31,60,716	18,66,394	12,01,844
SUPPLIES to the other PRESIDENCIES :								
BENGAL :								
Treasure - - - - -	46,51,318	-	25,49,600	15,20,560				
Bills paid - - - - -	21,96,431	21,98,297	38,76,474	18,47,111				
Stores - - - - -	5,05,173	1,937	4,032	16,124				
Indian Loans discharged - - -	14,910	28,980	—	—				
Interest on India Debt - - -	9,54,770	10,43,297	12,95,311	15,00,157				
Advances and Disbursements on account of Bengal - - - - -	96,36,305	1,71,09,605	97,86,662	96,31,799				
Miscellaneous - - - - -	20,169	—	—	—				
	1,79,79,076	2,03,62,116	1,75,11,979	1,45,15,751				
NORTH-WESTERN PROVINCES :								
Advances and Disbursements on account of Agra, and Miscellaneous -	2,198	4,12,753	6,11,436	2,13,449				
MADRAS :								
Bills paid - - - - -	45,652	38,381	33,602	46,711				
Stores - - - - -	6,46,634	-	1,051	402				
Advances and Disbursements on account of Madras, and Miscellaneous -	30,98,078	29,38,694	27,61,787	17,50,074				
	37,90,364	29,77,075	27,96,440	17,97,187				
TOTAL SUPPLIES to the other PRESIDENCIES - - -					2,17,71,638	2,37,71,944	2,09,19,855	1,65,26,387
TOTAL - - -					4,01,25,217	4,87,75,205	2,94,27,723	2,48,73,306
CASH BALANCES in the several Treasuries, 30th April - - -					1,89,52,131	1,29,03,961	1,98,54,853	3,41,96,855
GRAND TOTAL - - - Rupees					5,90,77,348	6,16,79,166	4,92,82,576	5,90,70,161

No. 9.—A STATEMENT of the CHARGES defrayed in ENGLAND on Account of the INDIAN TERRITORY, in the Years comprised in the preceding Accounts.

	1840/41.	1841/42.	1842/43.	1843/44.
	£.	£.	£.	£.
Dividends to Proprietors of East India Stock - - - - - }	631,645	632,545	625,885	631,591
Interest on the Home Bond Debt -	51,383	61,373	62,256	59,303
Invoice value of Stores consigned to India - - - - - }	330,278	393,083	321,260	350,845
Purchase and Equipment of Steam Vessels, including those purchased by the Secret Committee, and deducting Amount chargeable to Her Majesty's Government - - - }	83,142	93,625	50,669	28,131
Peninsular and Oriental Steam Navigation Company, in aid of the extension of Steam Communication with India - - - - - }	-	-	-	20,000
Transport of Troops and Stores, deducting Freight charged on Invoices - }	62,632	47,273	62,579	46,807
Furlough and Retired Pay to Military and Marine Officers, including Off- reckonings - - - - - }	502,053	535,608	532,799	541,686
Payments on account of Her Majesty's Troops serving in India - - - - - }	300,000	400,000	150,000	600,000
Retiring Pay to Her Majesty's Troops, (Act 4 Geo. 4, c. 71) - - - - - }	60,000	60,000	45,000	60,000
Charges General, deducting Charges of Establishments put upon Outward Invoices, and Interest realized on Investment of Cash Balances - - }	531,581	533,697	514,672	538,211
Absentee Allowance to Civil Servants of the Indian Establishments - - }	44,437	44,240	40,686	46,571
Expense of Tanjore Commission -	1,831	269	—	—
Retired Pay and Pensions of Persons of the late St. Helena Establishment, not chargeable to the Crown - - }	11,678	10,733	9,540	8,928
Her Majesty's Mission to the Court of Persia (portion paid by the Company) }	11,000	{ 17,557 Including an Arrear. }	12,000	12,000
Her Majesty's Establishment in China (portion paid by the Company) - }	4,116	4,783	4,450	—
Board of Ordnance, for Arms and Accoutrements supplied to Her Majesty's Troops embarked for India - }	-	-	26,397	—
£.	2,625,776	2,834,786	2,458,193	2,944,073

No. 10.—GENERAL ABSTRACT VIEW of the REVENUES and CHARGES of INDIA, for the Years comprised in the preceding Accounts, including the Charges disbursed in ENGLAND.

REVENUES:	1840/41.	1841/42.	1842/43.	1843/44, partly Estimated.	CHARGES:	1840/41.	1841/42.	1842/43.	1843/44, partly Estimated.
	Co.'s Rupees. 6,634,158 5	Co.'s Rupees. 6,925,579	Co.'s Rupees. 7,395,615 9	Co.'s Rupees. 7,850,345 2		Co.'s Rupees. 8,734,015 2	Co.'s Rupees. 8,581,495	Co.'s Rupees. 9,76,64,658	Co.'s Rupees. 8,98,52,031
BENGAL - (See Account, No. 1) -	3,75,64,979	4,20,84,604	4,22,59,728	4,27,38,300	BENGAL - (See Account, No. 1) -	80,52,904	85,81,495	83,06,020	93,21,600
NORTH-WESTERN PROVINCES - (ditto, No. 3) -	3,80,08,989	3,83,35,045	3,87,08,787	3,84,21,298	NORTH-WESTERN PROVINCES - (ditto, No. 3) -	3,57,55,468	3,58,07,921	3,60,61,682	3,56,54,112
MADRAS - (ditto, No. 5) -	1,94,97,831	1,86,76,100	2,09,13,951	2,18,31,763	MADRAS - (ditto, No. 5) -	2,09,74,716	2,12,80,775	2,12,42,991	2,35,10,624
BOMBAY - (ditto, No. 7) -	16,14,13,384	16,83,48,328	17,51,38,625	18,14,04,813	BOMBAY - (ditto, No. 7) -	15,21,23,240	15,70,07,707	16,32,75,351	15,83,38,367
TOTAL REVENUES of INDIA, Company's Rupees - - -	15,132,505	15,782,655	16,419,246	17,015,139	TOTAL, including WAR CHARGES, Company's Rupees - - -	14,261,554	14,719,472	15,307,064	14,844,222
At 2s. per Sicca Rupee - - £.					At 2s. per Sicca Rupee - £.				
RECEIPTS from Produce of COMMERCIAL ASSETS in India and China:					CHARGES consequent upon the Discharge of the 6 per Cent. REMITTABLE DEBT:				
BENGAL - (See Account, No. 1) -	15,162	40,766	7,308	8,900	BENGAL - (See Account, No. 1)	- - -	- - -	9,040	-
MADRAS - (ditto, No. 5) -	1,117	235	-	-	Company's Rupees	- - -	- - -	9,040	-
Company's Rupees					At 2s. per Sicca Rupee - - £.	- - -	- - -	847	-
At 2s. per Sicca Rupee - - £.					TOTAL CHARGES in INDIA - £.	14,261,554	14,719,472	15,307,911	14,844,222
TOTAL REVENUES and RECEIPTS in INDIA } £.	15,133,822	15,786,499	16,419,931	17,015,973	CHARGES disbursed in ENGLAND - (See Account, No. 9.)	2,625,776	2,834,786	2,458,193	2,944,073
Amount realized in England from the Commercial Assets, deducting Extraordinary Charges, as exhibited in the Home Accounts laid before Parliament; applicable to the service of the Government of India (per Act 3 & 4 Will. 4, c. 85) -	261	2,058	-	-	TOTAL CHARGES of INDIA - £.	16,887,330	17,554,258	17,766,104	17,788,295
£.	15,134,083	15,788,557	16,419,931	17,015,973					
Deficiency, after deducting net produce of the Commercial Assets of the Company, both in England and India - - -	1,753,247	1,765,701	1,346,173	772,322					
£.	16,887,330	17,554,258	17,766,104	17,788,295					

No. 11.—A COMBINED ACCOUNT of the CASH TRANSACTIONS of INDIA, for the Years comprised in the preceding Accounts.

	1840/41.	1841/42.	1842/43.	1843/44, partly Estimated.
	Co.'s Rupees.	Co.'s Rupees.	Co.'s Rupees.	Co.'s Rupees.
<b>R E C E I P T S :</b>				
LOCAL INDIAN SURPLUS - - -	93,04,189	1,13,81,622	1,18,61,542	2,31,65,346
DEBT incurred - - -	10,18,02,709	9,53,60,353	10,51,03,421	9,17,30,842
ADVANCES recovered and adjusted -	2,00,69,319	1,61,55,144	1,43,23,563	68,35,883
SUPPLIES from LONDON, including Credits to Her Majesty's Govern- ment - - -	82,11,460	1,40,32,230	86,38,722	1,23,45,861
UNADJUSTED BALANCE of SUPPLIES between the different Presidencies	-	-	27,51,670	71,86,231
CASH BALANCES in the Indian Treasuries on 30th April, commencement of each year - - -	9,46,48,750	8,93,17,994	8,35,59,567	9,83,13,750
Rupees	23,40,36,427	22,62,47,343	22,62,38,485	23,95,77,913
<b>P A Y M E N T S :</b>				
DEBT discharged - - -	8,20,75,132	8,17,27,402	8,06,95,711	8,15,20,527
ADVANCES recoverable - - -	1,58,83,999	2,05,47,097	1,55,09,248	44,93,632
SUPPLIES to LONDON, including Debits to Her Majesty's Govern- ment - - -	3,11,25,847	3,95,74,016	3,17,19,776	3,68,27,528
UNADJUSTED BALANCE of SUPPLIES between the different Presidencies	1,56,33,455	8,39,261	-	-
CASH BALANCES in the Indian Treasuries on 30th April, close of each year - - -	8,93,17,994	8,35,59,567	9,83,13,750	11,67,36,226
Rupees	23,40,36,427	22,62,47,343	22,62,38,485	23,95,77,913

No. 12.—AN ACCOUNT of the PUBLIC DEBTS, bearing Interest, outstanding at the several PRESIDENCIES in the EAST INDIES, on the 30th April 1843; also, of the Rates and Annual Amount of Interest payable thereon.

BENGAL:	DEBTS.	RATES of INTEREST.	Annual Amount of Interest.
REGISTERED DEBT:	<i>Co.'s Rupees.</i>		<i>Co.'s Rupees.</i>
Loans - - - - -	1,05,27,908	6 per cent. -	6,31,674
Ditto - - - - -	20,21,24,192	5 per cent. -	1,01,06,207
Ditto - - - - -	12,76,99,077	4 per cent. -	51,07,963
Company's Rupees -	34,03,51,177	- - -	1,58,45,844
Loan transferred from Fort Marlbro' - -	17,047	10 per cent. -	1,705
Treasury Notes - - - - -	76,15,795	{ average, 5 per cent. - - }	3,82,786
Civil and Medical Funds - - - - -	1,65,03,408	6 per cent. -	9,90,203
Miscellaneous Deposits - - - - -	5,17,043	5 and 4 per cent.	22,387
Company's Rupees -	36,50,04,470	- - -	1,72,42,925
NORTH-WESTERN PROVINCES (late Agra Presidency):			
Temporary Loans - - - - -	28,52,451	5 per cent. -	1,42,622
Miscellaneous Deposits - - - - -	2,00,000	4 per cent. -	8,000
Company's Rupees -	30,52,451	- - -	1,50,622
MADRAS:			
Loans - - - - -	2,62,131	6 and 8 per cent.	18,808
Civil, Military and Medical Funds - -	80,04,519	4, 5 and 6 per cent.	4,44,802
Miscellaneous Deposits - - - - -	4,13,434	4, 5 and 6 per cent.	18,807
Fund for the Redemption of the Bonds issued to the Creditors of the late Rajah of Tanjore - - - - -	5,62,378	4 per cent. -	22,496
Company's Rupees -	92,42,462	- - -	5,04,913
BOMBAY:			
Civil Annuity and other Funds - - -	43,09,798	6 per cent. -	2,58,588
Provident and Military Funds - - -	51,21,051	5 per cent. -	2,56,052
Miscellaneous Deposits - - - - -	6,55,669	4 per cent. -	26,227
Treasury Notes - - - - -	57,500	4 per cent. -	2,300
Company's Rupees -	1,01,44,018	- - -	5,43,167
Total Company's Rupees -	38,74,43,401	- - -	1,84,41,627
At 2s. per Sicca Rupee - - £.	36,322,819	- - £.	1,728,903

East India House, }  
29 May 1845. }

(Errors excepted.)

James C. Melvill,  
Secretary.

E A S T I N D I A.

A C C O U N T S

RESPECTING THE

ANNUAL TERRITORIAL REVENUES  
AND DISBURSEMENTS

OF

THE EAST INDIA COMPANY,

FOR THE YEARS

1840/41-1841/42-1842/43.



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*Ordered, by The House of Commons, to be Printed,  
10 June 1845.*

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## EAST INDIA.

RETURN to an Order of the Honourable The House of Commons,  
dated 16 May 1845 ;—for,

ACCOUNTS “ of the Total GROSS REVENUE of *India* ; of the Allowances, Assignments and Charges of Collection payable thereout ; of the Total NET REVENUE ; of the Ordinary and Extraordinary Charges in *India* and its Dependencies ; of the Payments in *England* on account of INDIAN TERRITORY ; of the Total Charges, exclusive of Collection, as aforesaid ; of the resulting Net Surplus or Net Deficiency ; of the Net Produce of the COMMERCIAL ASSETS, after deducting Extraordinary Charges, and the Sum applied to the Payment of Remittable Debt ; and of the Net SURPLUS or DEFICIENCY, after deducting such Produce, in each Year, from the last Renewal of the EAST INDIA COMPANY’S Charter to the latest Date to which it can be made up :—Of the CASH BALANCES in the several TREASURIES of *India* on the 30th day of April in each Year of the same Period ; distinguishing such Portion thereof in each Year as may have been the Produce of Commercial Assets :—Of the AMOUNT borrowed at INTEREST, and of the DEBT and INTEREST repaid by the Government of *India*, and of the Rate per Cent. at which such Sums were borrowed ; together with the Amount of REGISTERED DEBT in each of the same Years :—Of the SUMS advanced in *India* in each of the same Years on account of Her Majesty’s Government, for the Expenses incurred in the Expedition to *China* :—Of the PRICE of the Four per Cent. and Five per Cent. GOVERNMENT STOCK at *Calcutta* on the 1st day of each Month during the same Years :—Of the Total Value of EXPORTS and IMPORTS respectively from and into the Ports of *Calcutta*, *Madras* and *Bombay*, in each of the same Years :—Of the Amount of HOME BOND DEBT, together with the Rate of Interest charged upon the Revenues of *India* by the Act 3 & 4 Will. 4, c. 85, on the 1st day of May in each of the same Years.”

“ STATEMENT of the Amount and Condition of the GUARANTEE or SECURITY FUND of the EAST INDIA COMPANY, formed under the Provisions of the said Act, on the 1st day of May in each of the same Years.”

“ STATEMENT of the Manner in which the SUMS required to meet the Charges defrayed in *England* on account of the INDIAN TERRITORY have been realized in *England* ; whether by Bills from *India*, or by Bills drawn on *India*, or otherwise ; and of the average Rate of Exchange at which such Sums have been realized respectively ; showing the Balance either for or against the Government of *India* in each case, as compared with a Remittance at the calculated Par of Exchange between *India* and *Great Britain*.”

. (Mr. Stuart Wortley.)

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## EAST INDIA.

(HOME ACCOUNTS OF THE EAST INDIA COMPANY.)

[Presented pursuant to the Act 3 & 4 Will. 4, c. 85.]

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Ordered, by The House of Commons, to be Printed,  
24 June 1845.

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# L I S T.

## ACCOUNTS RELATIVE TO THE REVENUES OF INDIA.

No.

- 1.—ACCOUNT of the Total Gross Revenue of India; of the Allowances, Assignments and Charges of Collection payable thereout; of the Total Net Revenue; of the Ordinary and Extraordinary Charges in India and its Dependencies; of the Payments in England on account of Indian Territory; of the Total Charges, exclusive of Collection as aforesaid; of the resulting Net Surplus or Net Deficiency; of the Net Produce of the Commercial Assets, after deducting Extraordinary Charges, and the Sum applied to the Payment of remittable Debt; and of the Net Surplus or Deficiency, after deducting such Produce, in each Year from the last Renewal of the East India Company's Charter to the latest Date to which it can be made up - - - - - p. 3
- 2.—ACCOUNT of the Cash Balances in the several Treasuries of India on the 30th day of April in each Year of the same Period; distinguishing such Portion thereof in each Year as may have been the Produce of Commercial Assets - - - - - p. 3
- 3.—ACCOUNT of the Amount borrowed at Interest, and of the Debt and Interest repaid by the Government of India, and of the Rate per Cent. at which such Sums were borrowed; together with the Amount of Registered Debt in each of the same Years - - - - - p. 4
- 4.—ACCOUNT of the Sums advanced in India, in each of the same Years, on account of Her Majesty's Government, for the Expenses incurred in the Expedition to China - - - - - p. 5
- 5.—ACCOUNT of the Price of the Four per Cent. and Five per Cent. Government Stock at Calcutta on the 1st day of each Month during the same Years - - - - - p. 6
- 6.—ACCOUNT of the Total Value of Exports and Imports respectively from and into the Ports of Calcutta, Madras and Bombay, in each of the same Years - - - - - p. 10
- 7.—ACCOUNT of the Amount of Home Bond Debt, together with the Rate of Interest charged upon the Revenues of India by the Act 3 & 4 Will. 4, c. 85, on the 1st day of May in each of the same Years - - - - - p. 10
- 8.—STATEMENT of the Amount and Condition of the Guarantee or Security Fund of the East India Company, formed under the Provisions of the said Act, on the 1st day of May in each of the same Years, p. 11
- 9.—STATEMENT of the Manner in which the Sums required to meet the Charges defrayed in England on account of the Indian Territory have been realized in England; whether by Bills from India, or by Bills drawn on India, or otherwise; and of the average Rate of Exchange at which such Sums have been realized respectively; showing the Balance either for or against the Government of India in each case, as compared with a Remittance at the calculated Par of Exchange between India and Great Britain - - - - - p. 12

## HOME ACCOUNTS OF THE EAST INDIA COMPANY.

No.

- 1.—ACCOUNT of the Receipts and Disbursements of the Home Treasury of the East India Company, from 1st May 1844 to 30th April 1845 - - - - - p. 14
  - 2.—ESTIMATE of the Receipts and Disbursements of the Home Treasury of the East India Company, from 1st May 1845 to 30th April 1846 - - - - - p. 17
  - 3.—ACCOUNT of the Debts and Credits in England of the Government of India, on the 1st May 1845, p. 18
  - 4.—LIST of the several Establishments of the East India Company in England, and the Salaries and Allowances payable by the Court of Directors in respect thereof, on the 1st May 1845 - - - - - p. 19
  - 5.—ACCOUNT of new or increased Salaries, Establishments or Pensions payable in Great Britain, granted or created between 1st May 1844 and 1st May 1845 - - - - - p. 20
  - 6.—ALLOWANCES, Compensations, Remunerations and Superannuations granted to Officers and Servants of the East India Company, under the 93d section of the Act 53 Geo. 3, c. 155, between 1st May 1844 and 1st May 1845 - - - - - p. 22
- Nos. 7 and 8.—COMPENSATIONS granted between 1st May 1844 and 1st May 1845, under the Act 3 & 4 Will. 4, c. 85, s. 7:—
- 7.—To the Widows and Children of deceased Officers and Servants of the East India Company in England - - - - - p. 22
  - 8.—To the Families of deceased Officers, &c. of the Company's Maritime Service, in the form of Annuities - - - - - p. 23

## ACCOUNTS RELATIVE TO THE REVENUES OF INDIA.

## — No. 1. —

AN ACCOUNT of the Total Gross Revenue of *India*; of the Allowances, Assignments and Charges of Collection payable thereout; of the Total NET REVENUE; of the Ordinary and Extraordinary Charges in *India* and its Dependencies; of the PAYMENTS in *England* on account of INDIAN TERRITORY; of the Total Charges, exclusive of Collection, as aforesaid; of the resulting Net Surplus or Net Deficiency; of the Net Produce of the COMMERCIAL ASSETS, after deducting Extraordinary Charges, and the Sum applied to the Payment of Remittable Debt; and of the NET SURPLUS OR DEFICIENCY, after deducting such Produce, in each Year from the last Renewal of the EAST INDIA COMPANY'S Charter to the latest Date to which it can be made up.—(Converted into Sterling Money, at the Rate of 2 s. per Sicca Rupee.)

YEARS.	Total Gross Revenue of India.	Allowances, Assignments and Charges of Collection payable out of the Revenue.	Total Net Revenue.	Ordinary and Extraordinary Charges of India and its Dependencies.	Payments in England, on account of the Indian Territory.	Total Charges, exclusive of Collection.	Net Surplus.	Net Deficiency.	Net Produce of the Commercial Assets, after deducting certain Extraordinary Charges defrayed thereout, and the Sum applied to the Payment of Remittable Debt.	Net Surplus, including Net Produce of the Commercial Assets.	Net Deficiency, after deducting Net Produce of the Commercial Assets.
	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.
1834-35	18,628,355	4,458,528	14,169,827	12,201,436	2,162,868	14,364,304	-	194,477	8,203,761	8,009,284	—
1835-36	19,543,071	4,116,464	15,426,607	11,875,280	2,109,814	13,985,094	1,441,513	-	601,994	2,043,507	—
1836-37	19,665,621	4,463,281	15,202,340	11,743,269	2,210,847	13,954,116	1,248,224	-	1,225,241	2,473,465	—
1837-38	19,530,679	4,464,378	15,066,301	11,981,538	2,304,445	14,285,983	780,318	-	718,705	1,499,023	—
1838-39	19,811,559	4,483,866	15,327,693	13,094,015	2,615,465	15,709,480	-	381,787	460,806	79,019	—
1839-40	18,858,719	4,316,104	14,542,615	14,102,362	2,578,966	16,681,328	-	2,138,713	31,033	-	2,107,680
1840-41	19,543,674	4,411,169	15,132,505	14,261,554	2,625,776	16,887,330	-	1,754,825	1,578	-	1,753,247
1841-42	20,465,289	4,682,634	15,782,655	14,719,472	2,834,786	17,554,258	-	1,771,603	5,902	-	1,765,701
1842-43	21,190,259	4,771,013	16,419,246	15,307,064	2,458,193	17,765,257	-	1,346,011	Excess of Charges 162	-	1,346,173
1843-44	21,809,182	4,794,043	17,015,139	14,844,222	*2,944,073	17,788,295	-	773,156		-	772,322
Partly estimated									834	-	

\* Includes an extraordinary payment of £.450,000, on account of arrears due for Her Majesty's Troops employed in India.

## — No. 2. —

AN ACCOUNT of the CASH BALANCES in the several TREASURIES of *India* on the 30th day of April in each Year from the last Renewal of the EAST INDIA COMPANY'S Charter to the latest Date to which it can be made up; distinguishing such Portion thereof in each Year as may have been the Produce of Commercial Assets.—(Converted into Sterling Money, at the Rate of 2 s. per Sicca Rupee.)

	BENGAL AND THE NORTH-WESTERN PROVINCES.					MADRAS PRESIDENCY.			BOMBAY PRESIDENCY.			TOTAL Cash Balances in the Treasuries of India.
	Bengal Presidency.			North- Western Provinces (Agra.)	TOTAL Bengal and North- Western Provinces.	Territorial Balances.	Produce of Commercial Assets.	TOTAL.	Territorial Balances.	Produce of Com- mercial Assets.	TOTAL.	
	Territorial Balances.	Produce of Com- mercial Assets.	TOTAL.	Territorial Balances.								
	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.
April 1834	5,045,561	-	5,045,561	-	5,045,561	1,680,906	-	1,680,906	1,189,564	-	1,189,564	7,916,031
" 1835	2,888,703	140,233	3,028,936	2,552,827	5,581,763	2,203,954	19,006	2,227,960	1,300,650	-	1,300,650	9,110,373
" 1836	3,863,220	44,268	3,907,488	2,506,099	6,413,587	1,929,369	8,801	1,938,170	1,839,308	26,385	1,865,693	10,217,450
" 1837	3,813,222	11,448	3,824,670	1,840,028	5,664,698	1,858,159	96	1,858,255	2,330,087	913	2,331,000	9,853,953
" 1838	3,687,642	18,616	3,706,258	1,522,412	5,228,670	2,218,299	1,378	2,219,677	2,509,865	-	2,509,865	9,958,212
" 1839	2,510,841	16,254	2,527,095	2,321,945	4,849,040	2,336,076	45	2,336,121	1,724,571	-	1,724,571	8,909,732
" 1840	2,879,654	6,445	2,886,099	1,817,258	4,703,357	2,000,637	202	2,000,839	2,169,124	-	2,169,124	8,873,320
" 1841	3,068,152	1,421	3,069,573	1,483,908	4,553,481	2,043,423	Excess of Charges 104	2,043,319	1,776,762	-	1,776,762	8,373,562
" 1842	3,080,273	3,822	3,084,095	1,546,307	4,630,402	1,993,538		22	1,993,560	1,209,747	-	1,209,747
" 1843	3,592,668	685	3,593,353	1,589,319	5,182,672	2,172,849	-	2,172,849	1,861,393	-	1,861,393	9,216,914
" 1844	4,430,307	834	4,431,141	1,019,004	5,450,145	2,287,921	-	2,287,921	3,205,955	-	3,205,955	10,944,021
Partly estimated												

## —No. 3.—

AN ACCOUNT of the AMOUNT borrowed at INTEREST, and of the DEBT and INTEREST repaid by the Government of India, and of the Rate per Cent. at which such Sums were borrowed, together with the Amount of REGISTERED DEBT, in each Year from the last Renewal of the EAST INDIA COMPANY'S Charter to the latest Date to which it can be made up.—(Converted into Sterling Money, at the Rate of 2s. per Sicca Rupee.)

REGISTERED DEBT.				TREASURY NOTES.						TEMPORARY LOANS.	
				BENGAL.				BOMBAY.		North-Western Provinces (late Agra Presidency).	
				Interest at 2 pie per cent. per diem, or about 3½ per cent. per ann.	Interest 4 per cent. per annum.	Interest 5 per cent. per annum.	Interest 6 per cent. per ann. (Issued to the Civil, Military and Provident Funds.)	Interest 4 per cent. per annum.	TOTAL.	5 per cent. per annum.	4 per cent. per annum.
				£.	£.	£.	£.	£.	£.	£.	£.
Amount of Registered Debt on 30 April 1834				30,086,239	109,592	-	-	-	-	599,830	-
Debt contracted, 4 per cent.				2,981,260	-	-	-	-	-	81,770	-
Debt redeemed, 6 per cent.				33,067,499	-	-	-	-	-	-	-
5 "				732,155	-	-	-	-	-	-	-
1,118,786				-	-	-	-	-	-	-	-
1,850,941				-	-	-	-	-	-	-	-
Amount of Registered Debt on 30 April 1835				31,216,558	109,592	-	-	-	-	518,060	-
Debt contracted, 5 per cent.				737,961	-	-	-	-	-	13,521	-
4 "				1,143,980	-	-	-	-	-	-	-
Debt redeemed, 6 per cent.				33,098,499	-	-	-	-	-	-	-
6 per cent.				6,260,657	-	-	-	-	-	-	-
Amount of Registered Debt on 30 April 1836				26,837,842	109,592	-	-	-	-	531,581	-
Debt contracted, 5 per cent.				77,166	-	-	-	-	-	37,651	-
4 "				799,606	-	-	-	-	-	-	-
Debt redeemed, 10 per cent.				27,714,614	-	-	-	-	-	-	-
6 "				253	-	-	-	-	-	-	-
Debt redeemed, 10 per cent.				543,667	-	-	-	-	-	-	-
6 "				543,920	-	-	-	-	-	-	-
Amount of Registered Debt on 30 April 1837				27,170,694	109,592	-	-	-	-	569,232	-
Debt contracted, 4 per cent.				766,740	-	-	-	-	-	417,546	-
Debt redeemed, 6 per cent.				27,937,434	-	-	-	-	-	-	-
5 "				38,497	-	-	-	-	-	-	-
Debt redeemed, 6 per cent.				1,483,081	-	-	-	-	-	-	-
5 "				1,521,578	-	-	-	-	-	-	-
Amount of Registered Debt on 30 April 1838				26,416,856	109,592	-	-	-	-	986,778	-
Debt contracted, 5 per cent.				37,247	-	-	-	-	-	14,170	-
Debt redeemed, 6 per cent.				26,453,103	-	-	-	-	-	-	-
4 "				113,367	-	-	-	-	-	1,000,948	-
Debt redeemed, 6 per cent.				42,952	-	-	-	-	-	308,724	-
4 "				156,319	-	-	-	-	-	-	-

Amount of Registered Debt on 30 April 1839	-	26,206,784	109,599	-	-	26,406,376	30 April 1839	29,490	-	647,214	22,530	-	-	682,324	368,801
Debt contracted, 5 per cent.	-	5,996	-	-	-	179,391	Debt contracted	-	271,875	9,883	-	-	-	281,758	
" " "	-	173,396	-	-	-	-		-	-	-	-	-	-	973,982	
Debt redeemed, 5 per cent.	-	26,476,175	-	-	-	26,585,767	Debt redeemed	22,490	-	-	9,618	-	-	32,108	70,743
	-	25,913	-	-	-	25,913		-	-	-	-	-	-	-	
Amount of Registered Debt on 30 April 1840	-	26,450,262	109,592	-	-	26,559,854	30 April 1840	-	271,875	657,097	12,902	-	-	941,874	288,059
Debt contracted, 6 per cent.	-	11,658	-	-	-	1,088,107	Debt contracted	-	86,528	-	9,176	53,409	-	151,113	5,860
" " "	-	775,304	-	-	-	-		-	-	-	-	-	-	-	
" " "	-	301,145	-	-	-	27,647,961	Debt redeemed	-	-	1,078	-	-	-	1,092,987	1,312
Debt redeemed, 6 per cent.	-	-	85,017	-	-	85,017		-	-	-	-	-	-	-	
Amount of Registered Debt on 30 April 1841	-	27,538,369	24,575	-	-	27,562,944	30 April 1841	-	360,403	656,019	22,078	53,409	-	1,091,909	293,919
Debt contracted, 6 per cent.	-	5,025	-	-	-	-	Debt contracted	-	-	25,947	16,597	-	-	42,544	
" " "	-	2,009,101	-	-	-	2,902,129		-	-	-	-	-	-	-	
" " "	-	188,003	-	-	-	-	Debt redeemed	-	72,216	-	-	45,159	-	1,134,453	5,973
Amount of Registered Debt on 30 April 1842	-	29,740,498	24,575	-	-	29,765,073	30 April 1842	-	298,187	681,966	38,675	8,250	-	1,017,078	287,946
Debt contracted, 6 per cent.	-	6,611	-	-	-	-	Debt contracted	-	-	9,640	-	-	-	9,640	
" " "	-	2,127,984	-	-	-	2,169,023		-	-	-	-	-	-	-	
" " "	-	34,428	-	-	-	-	Debt redeemed	-	286,359	-	18,128	2,859	-	1,026,718	20,529
Amount of Registered Debt on 30 April 1843	-	31,909,521	24,575	-	-	31,934,096	30 April 1843	-	1,828	691,606	20,547	5,391	-	719,372	267,417

—No. 4.—

ACCOUNT of the SUMS advanced in *India* in each Year, on account of Her Majesty's Government, for the Expenses incurred in the Expedition to *China*.

	Rupces.	s. d. at 2/-½ p' rupee	£.	£.
1839-40, Advances, Supplies, &c.	- - - - -	-	120,166	
1840-41 - ditto	- - - - -	"	562,340	
1841-42 - ditto	- - - - -	-	-	
Deduct the Value of Sycee Silver received by the Bengal Government from China	83,48,528 63,36,890	-	-	
NET ADVANCES, &c.	- - - - -	at 2/ p' rupee -	201,164	
1842-43 - ditto	93,22,193	-	-	
Deduct, Court's Bills on India, purchased in China from Funds in the hands of Her Majesty's Superintendent of Trade, and cancelled	2,76,778	-	-	
Also, Bills drawn by the Paymaster of the Expedition, paid out of Sums recovered from the Chinese Government	3,96,000	-	-	
NET ADVANCES, &c.	6,72,778	-	-	
1843-44 - ditto	- - - - -	"	864,941	
1844, May to November, the latest Accounts received, Advances, Supplies, &c.	- - - - -	"	253,858	
TOTAL AMOUNT (at the rates at which the Advances are repayable by Her Majesty's Government)	- - - - -	at 1/11½ p' rupee	40,189	
In addition to the above Sums, the Company have paid in England the first Donation Batta to Her Majesty's Navy, &c.	- - - - -	-	-	2,042,658
And on other Accounts in respect of the Expedition, about	- - - - -	-	-	106,364
	- - - - -	-	-	30,000
				136,364
				2,179,022

The Company have also issued about £.150,000 from the Home Treasury, on account of the second or Nanking Donation Batta; the whole Amount payable in England and in India on this account is estimated at £. 255,000.

## — No. 5. —

STATEMENT of the Price of the Four per Cent. and Five per Cent. GOVERNMENT STOCK at Calcutta, on the

—	First 5 per Cent. Loan.						Second 5 per Cent. Loan of 1825-26.	Third 5 per Cent. Loan of 1829-30.		Fourth 5 per Cent. Loan of 1841-42.								
	1st Class, No. 1, at 320.		2d Class, No. 321, at 1,040.		3d Class, No. 1,041, at 1,440.			Rates varying according to Numbers.	Buying.	Selling.	Buying.	Selling.						
	Buying.	Selling.	Buying.	Selling.	Buying.	Selling.												
	Premium.		Premium.		Premium.		Premium from		Premium.		Premium.							
	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.						
1834-35:																		
May -	1	8	1	-	-	10	-	2	-	2	12	2	4					
June -	1	6	-	14	-	10	-	4	to 3	-	2	12	2	4				
July -	1	6	-	14	-	10	-	4	to 3	-	2	4	1	12				
August -	1	8	1	-	-	10	-	4	to 3	8	3	4	2	12				
September -	1	10	1	4	-	10	-	6	to 3	8	3	4	2	12				
October -	1	12	1	6	-	11	-	7	to 3	8	3	2	2	10				
November -	1	12	1	6	-	11	-	7	to 3	8	3	2	2	10				
December -	1	8	1	2	-	11	-	7	to 3	8	3	4	2	12				
1835:																		
January -	1	4	1	-	-	4	-	Par -	-	4	to 3	-	3	4	2	12		
February -	1	4	1	-	-	4	-	Par -	-	4	to 2	-	3	4	2	12		
	Discount.																	
March -	1	2	1	10	-	-	-	-	-	4	to 2	-	3	4	2	12		
April -	1	2	1	10	-	-	-	-	-	4	to 2	-	2	8	2	-		
1835-36:																		
May -	1	-	1	8	-	-	-	-	-	4	to 2	-	2	8	2	-		
June -	1	-	1	8	-	-	-	-	-	8	to 1	10	2	8	2	-		
July -	-	8	1	-	-	-	-	-	-	2	to 1	12	1	12	1	4		
August -	-	2	-	4	-	-	-	-	-	4	to 2	8	2	4	1	12		
September -	-	2	-	4	-	-	-	-	-	4	to 2	8	2	12	2	8		
October -	-	2	-	4	-	-	-	-	-	4	to 2	8	2	12	2	8		
November -	-	2	-	4	-	-	-	-	-	4	to 2	8	2	12	2	8		
December -	-	-	-	-	-	-	-	-	-	4	to 2	8	2	12	2	8		
1836:																		
January -	-	-	-	-	-	-	-	-	-	4	to 2	8	2	12	2	8		
February -	-	-	-	-	-	-	-	-	-	4	to 2	8	2	12	2	8		
March -	-	-	-	-	-	-	-	-	-	12	to 3	4	2	12	2	8		
April -	-	-	-	-	-	-	-	-	-	1	2	to 3	4	2	12	2	8	
1836-37:																		
May -	-	-	-	-	-	-	-	-	-	1	4	to 4	-	3	12	3	4	
June -	-	-	-	-	-	-	-	-	-	1	4	to 3	4	4	4	3	8	
July -	-	-	-	-	-	-	-	-	-	1	4	to 4	4	4	4	3	8	
August -	-	-	-	-	-	-	-	-	-	1	4	to 4	4	4	-	3	8	
September -	-	-	-	-	-	-	-	-	-	1	2	to 4	8	4	-	3	8	
October -	-	-	-	-	-	-	-	-	-	1	-	to 5	-	4	-	3	12	
November -	-	-	-	-	-	-	-	-	-	1	-	to 5	-	4	-	3	12	
December -	-	-	-	-	-	-	-	-	-	-	4	to 5	-	4	-	3	8	
1837:																		
January -	-	-	-	-	-	-	-	-	-	-	9	to 3	14	3	8	3	-	
February -	-	-	-	-	-	-	-	-	-	-	4	to 3	8	3	-	2	8	
March -	-	-	-	-	-	-	-	-	-	-	4	to 3	8	3	-	2	8	
April -	-	-	-	-	-	-	-	-	-	-	4	to 3	8	3	-	2	8	
1837-38:																		
May -	-	-	-	-	-	-	-	-	-	-	4	to 3	8	3	4	2	12	
June -	-	-	-	-	-	-	-	-	-	-	4	to 3	8	3	4	2	12	
July -	-	-	-	-	-	-	-	-	-	-	4	to 3	8	2	12	2	8	
August -	-	-	-	-	-	-	-	-	-	-	12	to 4	-	3	4	3	-	
September -	-	-	-	-	-	-	-	-	-	-	12	to 4	-	3	12	3	-	
October -	-	-	-	-	-	-	-	-	-	-	12	to 4	-	3	12	3	-	
November -	-	-	-	-	-	-	-	-	-	-	12	to 4	-	3	12	3	-	
December -	-	-	-	-	-	-	-	-	-	-	12	to 4	-	3	12	3	-	
1838:																		
January -	-	-	-	-	-	-	-	-	-	-	12	to 4	-	2	12	2	8	
February -	-	-	-	-	-	-	-	-	-	-	2	to 3	-	2	6	2	2	
March -	-	-	-	-	-	-	-	-	-	-	2	to 3	8	2	6	2	2	
April -	-	-	-	-	-	-	-	-	-	-	2	to 3	8	2	12	2	7	
1838-39:																		
May -	-	-	-	-	-	-	-	-	-	-	2	to 3	8	3	-	2	8	
June -	-	-	-	-	-	-	-	-	-	-	2	to 3	8	3	-	2	8	
July -	-	-	-	-	-	-	-	-	-	-	2	to 3	8	2	12	2	4	
August -	-	-	-	-	-	-	-	-	-	-	2	to 3	8	2	12	2	4	
September -	-	-	-	-	-	-	-	-	-	-	2	to 3	8	2	12	2	4	
October -	-	-	-	-	-	-	-	-	-	-	8	to 3	8	2	12	2	4	
November -	-	-	-	-	-	-	-	-	-	-	8	to 3	8	2	12	2	4	
December -	-	-	-	-	-	-	-	-	-	-	8	to 3	8	2	12	2	4	
1839:																		
January -	-	-	-	-	-	-	-	-	-	-	8	to 3	8	2	12	2	4	
February -	-	-	-	-	-	-	-	-	-	-	8	to 3	8	2	12	2	4	
March -	-	-	-	-	-	-	-	-	-	-	4	to 2	4	2	12	2	4	
April -	-	-	-	-	-	-	-	-	-	-	4	to 2	4	2	4	2	-	
1839-40:																		
May -	-	-	-	-	-	-	-	-	-	-	1	-	to 2	8	2	4	2	-
June -	-	-	-	-	-	-	-	-	-	-	1	-	to 2	8	2	4	2	-
July -	-	-	-	-	-	-	-	-	-	-	1	-	to 2	8	2	4	2	-
August -	-	-	-	-	-	-	-	-	-	-	1	-	to 2	8	2	10	2	3
September -	-	-	-	-	-	-	-	-	-	-	1	-	to 2	8	2	8	2	10
October -	-	-	-	-	-	-	-	-	-	-	1	8	to 3	2	2	12	2	6



No. 5.

STATEMENT of the PRICE of the Four per Cent. and Five per Cent. GOVERNMENT STOCK at Calcutta, on the

—	First 5 per Cent. Loan.												Second 5 per Cent. Loan of 1825-26.	Third 5 per Cent. Loan of 1829-30.				Fourth 5 per Cent. Loan of 1841-42.					
	1st Class, No. 1, at 320.				2d Class, No. 321, at 1,040.				3d Class, No. 1,041, at 1,440.					Rates varying according to Numbers.		Buying.		Selling.		Buying.		Selling.	
	Buying.	Selling.	Buying.	Selling.	Buying.	Selling.	Buying.	Selling.															
	Premium.		Premium.		Premium.		Premium.		Premium.		Premium.		Premium.		Premium.		Premium.		Premium.				
	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.			
1839-40:																							
November -	-	-	-	-	-	-	-	-	-	-	2	-	to	4	-	3	12	3	4	-	-		
December -	-	-	-	-	-	-	-	-	-	-	1	8	to	3	12	3	12	3	8	-	-		
1840:																							
January -	-	-	-	-	-	-	-	-	-	-	1	8	to	3	12	3	12	3	8	-	-		
February -	-	-	-	-	-	-	-	-	-	-	1	8	to	3	8	3	12	3	8	-	-		
March -	-	-	-	-	-	-	-	-	-	-	2	8	to	4	-	3	12	3	8	-	-		
April -	-	-	-	-	-	-	-	-	-	-	3	4	to	4	8	4	8	4	4	-	-		
1840-41:																							
May -	-	-	-	-	-	-	-	-	-	-	3	8	to	5	8	5	8	5	-	-	-		
June -	-	-	-	-	-	-	-	-	-	-	3	8	to	5	4	5	8	5	4	-	-		
July -	-	-	-	-	-	-	-	-	-	-	3	8	to	5	4	5	4	5	-	-	-		
August -	-	-	-	-	-	-	-	-	-	-	4	-	to	5	8	5	4	5	-	-	-		
September -	-	-	-	-	-	-	-	-	-	-	4	-	to	5	8	5	4	5	-	-	-		
October -	-	-	-	-	-	-	-	-	-	-	4	8	to	5	8	5	4	5	-	-	-		
November -	-	-	-	-	-	-	-	-	-	-	4	-	to	5	8	5	4	5	-	-	-		
December -	-	-	-	-	-	-	-	-	-	-	4	-	to	5	8	5	4	5	-	-	-		
1841:																							
January -	-	-	-	-	-	-	-	-	-	-	3	8	to	4	8	5	-	4	8	-	-		
February -	-	-	-	-	-	-	-	-	-	-	3	8	to	4	8	5	-	4	8	-	-		
March -	-	-	-	-	-	-	-	-	-	-	2	12	to	5	-	5	-	4	8	-	-		
April -	-	-	-	-	-	-	-	-	-	-	2	12	to	4	8	5	-	4	8	-	-		
1841-42:																							
May -	-	-	-	-	-	-	-	-	-	-	Discount.					Discount.							
June -	-	-	-	-	-	-	-	-	-	-	1	8	to	2	-	-	8	-	12	-	-		
July -	-	-	-	-	-	-	-	-	-	-	1	-	to	1	8	-	8	-	12	-	-		
August -	-	-	-	-	-	-	-	-	-	-	-	4	to	-	8	-	4	-	12	-	8		
September -	-	-	-	-	-	-	-	-	-	-	-	5	to	-	10	-	5	-	10	-	8		
October -	-	-	-	-	-	-	-	-	-	-	-	6	to	-	10	-	4	-	6	-	6		
November -	-	-	-	-	-	-	-	-	-	-	-	6	to	-	10	-	4	-	6	-	6		
December -	-	-	-	-	-	-	-	-	-	-	-	4	to	-	8	-	4	-	6	-	6		
	-	-	-	-	-	-	-	-	-	-	-	2	to	-	6	-	2	-	6	-	6		
1842:																							
January -	-	-	-	-	-	-	-	-	-	-	1	-	to	1	8	1	-	1	8	-	12		
February -	-	-	-	-	-	-	-	-	-	-	1	4	to	1	8	1	4	1	8	-	12		
March -	-	-	-	-	-	-	-	-	-	-	1	4	to	1	8	1	4	1	8	-	12		
April -	-	-	-	-	-	-	-	-	-	-	1	-	to	1	8	1	-	1	4	-	12		
1842-43:																							
May -	-	-	-	-	-	-	-	-	-	-	1	-	to	1	4	1	-	1	4	-	12		
June -	-	-	-	-	-	-	-	-	-	-	1	-	to	1	2	-	12	1	4	-	6		
July -	-	-	-	-	-	-	-	-	-	-	1	-	to	1	2	-	12	1	4	-	6		
August -	-	-	-	-	-	-	-	-	-	-	1	-	to	1	2	-	12	1	4	-	6		
September -	-	-	-	-	-	-	-	-	-	-	1	-	to	1	2	-	12	1	4	-	6		
October -	-	-	-	-	-	-	-	-	-	-	1	-	to	1	2	-	12	1	4	-	6		
November -	-	-	-	-	-	-	-	-	-	-	-	4	to	-	8	-	4	-	8	-	3		
December -	-	-	-	-	-	-	-	-	-	-	-	6	to	-	10	-	6	-	10	-	3		
1843:																							
January -	-	-	-	-	-	-	-	-	-	-	-	6	to	-	10	-	6	-	10	-	3		
February -	-	-	-	-	-	-	-	-	-	-	Premium.		Premium.		Premium.		Premium.		Premium.				
March -	-	-	-	-	-	-	-	-	-	-	3	4	to	2	12	3	4	2	12	4	-		
April -	-	-	-	-	-	-	-	-	-	-	2	-	to	1	8	2	-	1	8	3	4		
	-	-	-	-	-	-	-	-	-	-	1	4	to	-	12	1	4	-	12	3	-		
1843-44:																							
May -	-	-	-	-	-	-	-	-	-	-	-	14	to	-	6	-	14	-	6	3	-		
June -	-	-	-	-	-	-	-	-	-	-	-	14	to	-	6	-	14	-	6	3	4		
July -	-	-	-	-	-	-	-	-	-	-	1	-	to	-	12	-	14	-	12	4	-		
August -	-	-	-	-	-	-	-	-	-	-	1	-	to	-	12	-	14	-	12	5	-		
September -	-	-	-	-	-	-	-	-	-	-	2	8	to	2	4	4	2	3	14	6	4		
October -	-	-	-	-	-	-	-	-	-	-	3	-	to	2	12	4	12	4	2	7	6		
November -	-	-	-	-	-	-	-	-	-	-	3	-	to	2	12	5	2	4	10	8	2		
December -	-	-	-	-	-	-	-	-	-	-	2	8	to	7	-	6	8	6	-	8	12		
1844:																							
January -	-	-	-	-	-	-	-	-	-	-	2	8	to	7	-	6	8	6	-	8	12		
February -	-	-	-	-	-	-	-	-	-	-	2	8	to	6	8	6	8	6	-	8	-		
March -	-	-	-	-	-	-	-	-	-	-	2	8	to	6	8	6	8	6	-	8	8		
April -	-	-	-	-	-	-	-	-	-	-	2	8	to	6	8	6	8	6	-	8	12		
1844-45:																							
May -	-	-	-	-	-	-	-	-	-	-	2	8	to	6	8	6	8	6	-	9	-		
June -	-	-	-	-	-	-	-	-	-	-	2	8	to	6	8	6	8	6	-	8	8		
July -	-	-	-	-	-	-	-	-	-	-	2	8	to	6	8	6	8	6	-	8	8		
August -	-	-	-	-	-	-	-	-	-	-	4	8	to	7	12	6	12	6	4	9	2		
September -	-	-	-	-	-	-	-	-	-	-	4	8	to	7	15	7	6	6	12	10	-		
October -	-	-	-	-	-	-	-	-	-	-	4	8	to	8	8	7	10	7	-	10	8		
November -	-	-	-	-	-	-	-	-	-	-	4	8	to	8	8	7	8	7	4	10	8		
December -	-	-	-	-	-	-	-	-	-	-	4	8	to	8	8	7	8	7	4	10	8		
1845:																							
January -	-	-	-	-	-	-	-	-	-	-	4	3	to	8	3	7	8	7	4	10	-		
February -	-	-	-	-	-	-	-	-	-	-	4	-	to	8	-	7	4	6	10	10	-		
March -	-	-	-	-	-	-	-	-	-	-	3	7	to	7	5	7	4	6	10	9	12		
April -	-	-	-	-	-	-	-	-	-	-	5	-	to	7	5	6	8	5	14	8	8		





— No. 6.—

AN ACCOUNT of the Total Value of Exports and Imports respectively, from and into the Ports of *Calcutta, Madras and Bombay*, from the Year 1834–35 to the latest Period to which the same can be made up.—(Converted into Sterling Money, at the Rate of 2 s. per Sicca Rupee.)

	I M P O R T S.									TOTAL IMPORTS.		
	BENGAL.			MADRAS.			BOMBAY.					
	Goods and Merchandise.	Bullion.	TOTAL.	Goods and Merchandise.	Bullion.	TOTAL.	Goods and Merchandise.	Bullion.	TOTAL.	Goods and Merchandise.	Bullion.	TOTAL.
	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.
1834-35	2,192,557	646,325	2,838,782	917,554	143,769	1,061,323	2,547,938	1,105,381	3,653,319	5,658,049	1,895,375	7,553,424
1835-36	2,460,703	687,169	3,147,872	841,814	105,878	947,692	2,975,458	1,316,396	4,291,854	6,277,975	2,109,443	8,387,418
1836-37	2,905,074	574,244	3,479,318	990,219	71,211	1,061,430	3,165,676	1,263,451	4,429,127	7,060,969	1,908,906	8,969,875
1837-38	2,555,287	983,327	3,538,614	941,740	120,509	1,062,249	2,811,791	1,371,258	4,183,049	6,308,818	2,475,094	8,783,912
1838-39	2,616,545	1,142,842	3,759,387	970,138	122,938	1,093,076	2,887,736	1,556,957	4,444,693	6,474,419	2,822,737	9,297,156
1839-40	3,398,771	1,150,113	4,548,884	982,218	105,381	1,087,599	2,571,232	568,192	3,139,424	6,952,221	1,823,686	8,775,907
1840-41	4,672,943	861,382	5,534,325	1,066,580	63,887	1,130,467	4,033,937	797,571	4,831,558	9,773,510	1,722,840	11,496,350
1841-42	4,385,051	1,253,995	5,639,046	986,690	63,338	1,050,028	3,669,964	789,088	4,459,052	9,041,705	2,106,421	11,148,126
1842-43	4,126,181	1,545,667	5,671,848	Statements not yet rec <sup>d</sup> from Madras.			3,868,530	1,674,048	5,542,578	—	—	—
	E X P O R T S.									TOTAL EXPORTS.		
	Goods and Merchandise.	Bullion.	TOTAL.	Goods and Merchandise.	Bullion.	TOTAL.	Goods and Merchandise.	Bullion.	TOTAL.	Goods and Merchandise.	Bullion.	TOTAL.
	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.
1834-35	4,519,812	66,555	4,586,367	1,567,261	99,978	1,667,239	3,273,036	30,479	3,303,515	9,360,109	197,012	9,557,121
1835-36	5,887,794	56,599	5,944,393	1,797,787	29,604	1,827,391	4,643,164	37,668	4,680,832	12,328,745	123,871	12,452,616
1836-37	6,678,197	151,234	6,829,431	2,072,611	68,077	2,140,688	5,423,428	28,126	5,451,554	14,174,236	247,437	14,421,673
1837-38	6,706,926	131,656	6,838,582	1,529,741	99,779	1,629,520	3,810,143	87,929	3,898,072	12,046,810	319,364	12,366,174
1838-39	6,711,029	152,587	6,863,616	1,778,611	85,535	1,864,146	4,147,988	88,039	4,236,027	12,637,628	326,161	12,963,789
1839-40	6,679,994	187,516	6,867,510	1,673,397	119,481	1,992,878	3,299,834	134,118	3,433,952	11,853,225	441,115	12,294,340
1840-41	7,840,311	137,068	7,977,379	1,863,797	83,719	1,947,516	4,642,711	175,624	5,018,335	14,546,819	396,411	14,943,230
1841-42	7,913,325	149,208	8,062,533	2,115,068	169,202	2,284,270	4,991,160	179,536	5,170,696	15,019,553	497,946	15,517,499
1842-43	7,171,704	68,376	7,240,080	Statements not yet rec <sup>d</sup> from Madras.			5,144,003	129,983	5,273,986	—	—	—

The IMPORTS of STORES for the Service of the Government of *India*, not included in the Reports of External and Internal Commerce, were as follow :—

				Bengal.	Madras.	Bombay.	TOTAL.
				£.	£.	£.	£.
1834–35	-	-	-	113,153	52,457	46,109	211,719
1835–36	-	-	-	75,735	72,992	35,402	184,129
1836–37	-	-	-	105,086	62,690	66,886	234,664
1837–38	-	-	-	129,908	89,521	23,997	243,426
1838–39	-	-	-	101,080	97,608	85,616	284,304
1839–40	-	-	-	182,212	53,935	81,441	317,588
1840–41	-	-	-	197,381	73,384	157,585	428,350
1841–42	-	-	-	148,578	86,323	112,151	347,052
1842–43	-	-	-	279,089	63,118	133,950	476,157

Notes.—The consignments of Treasure between the several Presidencies, being almost entirely for the service of the Government of *India*, are excluded from this Account.

— No. 7.—

ACCOUNT of the Amount of the HOME BOND DEBT, together with the Rate of Interest charged upon the Revenues of *India* by the Act 3 & 4 Will. 4, c. 85, on the 1st day of May in each Year from the last Renewal of the EAST INDIA COMPANY'S Charter to the 1st May 1845.

	Amount of the Home Bond Debt.			Rate of Interest.	
	Amount bearing Interest.	Amount upon which Interest has ceased.	TOTAL.		
	£.	£.	£.		
1st May 1834	3,523,237	15,417	3,538,654	2 10	— per cent. per ann.
— 1835	3,523,237	15,417	3,538,654	2 10	—
— 1836	3,523,237	15,417	3,538,654	2 10	—
— 1837	3,522,925	15,417	3,538,342	4	—
— 1838	3,522,825	15,417	3,538,242	4	—
— 1839	1,734,300	32,092	1,766,392	3	—
— 1840	1,734,300	23,092	1,757,392	3	—
— 1841	1,734,300	22,692	1,756,992	{ £. 1,565,000, at £. 3. 10. p' cent., and £. 168,900* at £. 3 per cent.	
— 1842	1,734,300	22,299	1,756,599	3 10	— per cent. per ann.
— 1843	1,734,300	12,192	1,756,492	3 10	—
— 1844	1,734,300	21,792	1,756,092	3 10	—
— 1845	2,299,600	21,792	2,321,392	3	—

Note.—The Rates of Interest on the Home Bond Debt, in the period from the 1st May 1834 to the 1st May 1845, were as follow :—

		£. s. d.
From 1st May 1834 to the 20th Sept. 1836	-	2 10 - p' cent. p' ann.
- 20th Sept. 1836 to the 21st Nov. 1836	-	3 10 -
- 21st Nov. 1836 to the 30th June 1838	-	4 - -
- 30th June 1838 to the 31st Mar. 1841	-	3 - -
- 31st Mar. 1841 to the 31st Oct. 1844, on } Bonds not notified for discharge	- }	3 10 -
Since 31st Oct. 1844	-	3 - -

\* Bonds which the holders had notified for discharge.

## —No. 8.—

STATEMENT of the Amount and Condition of the GUARANTEE OR SECURITY FUND of the EAST INDIA COMPANY, formed under the Provisions of the Act 3 & 4 Will. 4, c. 85, on the 1st day of May in each Year.

PAID into the BANK of ENGLAND, agreeably to the 14th section of the Act above referred to:		£.	s.	d.
25th April 1834:	The Amount realized by Sale on the 22d April 1834, of the Government Stocks standing in the name of the East India Company; the Stock, then sold, having been purchased by the Commissioners for the Reduction of the National Debt, and accounted for to the Company on the 25th April - - - - -	1,881,492	14	1
Ditto - -	The Sum requisite to complete the payment to the Account of the Commissioners of the sum of £. 2,000,000, directed to be applied to the formation of the Security Fund - - - - -	118,507	5	11
		£.	2,000,000	- -
12th Aug. 1836:	Amount of two days' Interest, at 3 $\frac{1}{2}$ per cent. per annum; viz. from the 23d to the 25th of April 1834, for protracted payment of the sum of £. 118,507. 5. 11. - -	22	14	6
TOTAL AMOUNT paid into the Bank of England by the East India Company, to the credit of the Commissioners for the Reduction of the National Debt - - - - -		£.	2,000,022	14 6
Amount of Dividends on Capital Stock in the Public Funds, standing in the names of the Commissioners for the Reduction of the National Debt, on account of the Security Fund, appearing by Returns received from the National Debt Office to have been placed to their Account, under the provisions of the above-mentioned Act; viz.				
		£.	s.	d.
In 1834-35 - - - - -		67,428	14	-
1835-36 - - - - -		69,677	10	7
1836-37 - - - - -		72,022	12	-
1837-38 - - - - -		74,453	10	5
1838-39 - - - - -		76,883	4	4
1839-40 - - - - -		79,430	17	7
1840-41 - - - - -		82,134	6	1
1841-42 - - - - -		84,968	13	1
1842-43 - - - - -		87,800	5	10
1843-44 - - - - -		90,566	3	3
1844-45 - - - - -		93,433	3	10
			878,799	1 -
TOTAL AMOUNT, to the 30th of April 1845, placed to the credit of the Commissioners - - - - -		£.	2,878,821	15 6

Note.—Under the provisions of the Act 3 & 4 Will. 4, c. 85 (sec. 14), the Security Fund is to accumulate, by investments of its Dividends in the Public Funds, until it shall amount to £. 12,000,000 sterling, when it will become applicable to the redemption of the Company's Dividend.

AMOUNT of CAPITAL STOCK in the PUBLIC FUNDS, purchased by the Commissioners for the Reduction of the National Debt, on account of the Security Fund, and appearing by Statements received from the National Debt Office as standing in their Names at the under-mentioned Dates; viz.

	CAPITAL STOCK.		Cost of the Stock purchased.	
	Consolidated 3 per Centa.	Reduced 3 per Centa.		
	£. s. d.	£. s. d.	£. s. d.	
1st May 1834 - - - - -	6,841 17 7	2,102,376 5 11	1,890,598	19 1
- 1835 - - - - -	6,841 17 7	2,296,500 10 4	2,067,428	14 -
- 1836 - - - - -	6,841 17 7	2,373,332 4 11	2,137,106	4 7
- 1837 - - - - -	6,841 17 7	2,454,720 19 1	2,209,151	11 1
- 1838 - - - - -	6,841 17 7	2,535,362 5 -	2,283,605	1 6
- 1839 - - - - -	38,704 16 9	2,586,393 14 1	2,360,488	5 10
- 1840 - - - - -	38,704 16 9	2,674,751 14 4	2,439,919	3 5
- 1841 - - - - -	73,704 16 9	2,733,010 7 3	2,522,053	9 6
- 1842 - - - - -	120,304 16 9	2,781,881 17 8	2,607,022	2 7
- 1843 - - - - -	132,211 18 3	2,862,900 16 9	2,694,822	8 5
- 1844 - - - - -	163,267 4 10	2,925,310 2 -	2,785,388	11 8
- 1845 - - - - -	168,267 4 10	2,994,631 2 9	2,878,821	15 6

— No. 9. —

STATEMENT of the Manner in which the Sums required to meet the Charges defrayed in *England* on account of the *INDIAN* Rate of Exchange at which such Sums have been realized respectively ; showing the Balance either for or against the Govern-

STATEMENT of the Manner in which the Sums required to meet the Charges defrayed in England on account									
BILLS from INDIA (exclusive of Supplies to Her Majesty's Government).					BILLS DRAWN ON INDIA AT 60 DAYS' SIGHT.				
Amount advanced in India in the following Years, realized in England by means of Bills drawn in the Court's favour at Six Months' sight to 31 March 1842, subsequently at Ten Months' date.					Amount received in England.				
£.					£.				
1834-35	-	-	-	222,369	-	-	-	732,803	-
1835-36	-	-	-	1,099,017	-	-	-	2,045,253	-
1836-37	-	-	-	1,052,573	-	-	-	2,042,232	-
1837-38	-	-	-	990,655	-	-	-	1,706,185	-
1838-39	-	-	-	630,915	-	-	-	2,346,591	-
1839-40	-	-	-	1,186,905	-	-	-	1,439,525	-
1840-41	-	-	-	747,117	-	-	-	1,174,450	-
1841-42	-	-	-	858,878	-	-	-	2,589,283	-
1842-43	-	-	-	524,402	-	-	-	1,197,439	-
1843-44	-	-	-	248,131	-	-	-	2,801,731	-
1844-45	-	-	{ So far as advices have been received }	250,971	-	-	-	2,516,951	-

AVERAGE RATE of EXCHANGE at which such Sums have been realized respectively ; showing the Balance either for or against the

BILLS FROM INDIA.					BILLS DRAWN ON INDIA.			
Average Rate per Company's Rupee.		Balance per Company's Rupee as compared with a Remittance at the calculated Par of Exchange, or Rate of 2 s. the Sicca Rupee, made use of in the Company's Accounts, equivalent to 1 s. 10½ d. the Company's Rupee.			Average Rate per Company's Rupee.		Balance per Company's Rupee as compared with a Remittance at the calculated Par of Exchange, or Rate of 2 s. the Sicca Rupee, made use of in the Company's Accounts, equivalent to 1 s. 10½ d. the Company's Rupee.	
Exclusive of Interest.	Allowing for Interest.	Exclusive of Interest.	Allowing for Interest.		Exclusive of Interest.	Allowing for Interest.	Exclusive of Interest.	Allowing for Interest.
In favour of India.	In favour of India.	In favour of India.	In favour of India.		In favour of India.	In favour of India.	In favour of India.	In favour of India.
s. d.	s. d.	d.	d.		s. d.	s. d.	d.	d.
1834-35	2 - 375	1 11 588	1 876	1 088	1 10 782	1 11 161	- 282	- 661
1835-36	2 - 195	1 11 416	1 695	- 916	1 10 593	1 10 969	- 093	- 469
1836-37	2 - 863	2 - 078	2 363	1 578	1 10 987	1 11 370	- 487	- 870
1837-38	2 - 516	1 11 725	2 016	1 225	1 11 070	1 11 455	- 57	- 965
1838-39	2 1 887	2 1 052	3 387	2 552	1 11 658	2 - 052	1 158	1 552
1839-40	2 1 218	2 - 404	2 718	1 904	1 11 449	1 11 766	- 949	1 266
1840-41	2 - 444	1 11 656	1 944	1 156	1 11 507	1 11 825	1 007	1 325
1841-42	2 - 741	1 11 943	2 241	1 443	1 10 623	1 10 929	- 123	- 429
1842-43	2 - 149	1 11 371	1 649	- 871	1 11 555	1 11 873	1 055	1 373
1843-44	2 -	1 11 226	1 500	- 726	1 11 013	1 11 324	- 513	- 824
1844-45	1 10	1 9 290	Against India. - 500	Against India. 1 210	1 9 632	1 9 925	Against India. - 868	Against India. - 575

Note.—Independently of the Remittances called for by the Court towards meeting the Home Expenditure, Bills drawn at various dates and sights,

		£.		
1834-35	-	10,145	-	-
1835-36	-	46,366	-	-
1836-37	-	37,592	-	-
1837-38	-	59,535	-	-
1838-39	-	24,438	-	-
1839-40	-	30,000	-	-
1840-41	-	22,042	-	-
1841-42	-	11,185	-	-
1842-43	-	78,467	-	-
1843-44	-	114,935	-	-
1844-45, so far as advices have been received	-	44,855	-	-

East India House, }  
17 June 1845. }

## —No. 9.—

TERRITORY have been realized in *England*; whether by Bills from *India*, or by Bills drawn on *India*, or otherwise; and of the Average ment of *India* in each case as compared with a Remittance at the calculated Par of Exchange between *India* and *Great Britain*.

of the INDIAN TERRITORY have been realized in *England*, whether by Bills from *India*, or by Bills drawn on *India*, or otherwise.

SILK CONSIGNED FROM INDIA.						BILLS FROM CHINA.						Repayments on account of the China Expedition, the Advances in India on Hypothecation having been reduced to the extent of these Repayments.					
Net Sale Proceeds.						Amount advanced in China in the following Years, realized in England by means of Bills drawn in the Court's favour at Six Months' sight,											
£.						£.											
-	-	-	513,637	-	-	-	-	-	511,486								
-	-	-	284,516	-	-	-	-	-	957,738								
-	-	-	56,292	-	-	-	-	-	968,236								
-	-	-	122,038	-	-	-	-	-	297,852								
-	-	-	66,833	-	-	-	-	-	394,396								
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	£.		
														-	-	-	150,000
														-	-	-	423,442
														-	-	-	800,000
														-	-	-	804,964

Government of *India* in each case, as compared with a Remittance at the calculated Par of Exchange between *India* and *Great Britain*.

SILK CONSIGNED FROM INDIA.				BILLS FROM CHINA.				REPAYMENTS on account of the CHINA EXPEDITION.	
Average Rate per Company's Rupee.		Balance per Company's Rupee as compared with a Remittance at the calculated Par of Exchange, or Rate of 2s. the Sicca Rupee, made use of in the Company's Accounts, equivalent to 1s. 10½d. the Company's Rupee.		Average Rate per Company's Rupee.		Balance for Company's Rupee as compared with a Remit- tance at the calculated Par of Exchange, or Rate of 2s. the Sicca Rupee, made use of in the Co.'s accounts, equivalent to 1s. 10½d. the Co.'s Rupee.		Rate per Company's Rupee, exclusive of Interest (the Repay- ments having been made from time to time, partly on Estimate.)	Balance per Com- pany's Rupee as com- pared with a Remit- tance at the calculated Par of Exchange, or Rate of 2s. the Sicca Rupee, made use of in the Company's Ac- counts, equivalent to 1s. 10½d. the Com- pany's Rupee.
Exclusive of Interest.	Allowing for Interest.	Exclusive of Interest. In favour of India	Allowing for Interest. In favour of India.	Exclusive of Interest.	Allowing for Interest.	Exclusive of Interest. In favour of India.	Allowing for Interest. In favour of India.		In favour of India.
s. d.	s. d.	d.	d.	s. d.	s. d.	d.	d.		
2 10·077	2 7·553	11·577	9·053	2 -·303	1 11·422	1·703	-·922		
2 6·296	2 4·051	7·795	5·551	2 -·662	1 11·866	2·162	1·366		
2 1·791	1 11·878	3·291	1·378	2 -·849	2 -·048	2·349	1·548		
			Against India.						
2 2·248	1 10·462	1·748	-·048	2 -·067	1 11·290	1·567	-·790		
			In favour of India.						
2 2·744	2 -·763	4·244	2·263	2 1·272	2 -·457	2·772	1·957		
-	-	-	-	-	-	-	-	s. d.	d.
-	-	-	-	-	-	-	-	2 -½	2
-	-	-	-	-	-	-	-	2 -	1½
-	-	-	-	-	-	-	-	2 -	1½
-	-	-	-	-	-	-	-	2 -	1½

have been remitted in payment of Advances and Supplies in India to Her Majesty's Service, in the period embraced in this Account, as follows:—

s. d.	s. d.
at 1 11½ per Sicca Rupee, equivalent to 1 10 per Company's Rupee.	
" 2 1 - - - - ditto - - - 1 11½ - ditto.	
" 2 - - - - - ditto - - - 1 10½ - ditto.	
" 1 11 per Company's Rupee.	
" 1 11 - - - - ditto.	
" 2 -½ - - - - ditto.	
" 2 -½ - - - - ditto.	
" 2 - - - - - ditto.	
" 2 - - - - - ditto.	
" 2 - - - - - ditto.	
" 1 11½ - - - - ditto.	

(Errors excepted.)

JAMES C. MELVILL,  
Secretary.

## HOME ACCOUNTS OF THE EAST INDIA COMPANY.

—No. 1.—

AN ACCOUNT of the RECEIPTS and DISBURSEMENTS of the HOME TREASURY of the  
EAST INDIA COMPANY, from 1st May 1844 to 30th April 1845.

ON ACCOUNT OF THE REALIZATION OF THEIR COMMERCIAL ASSETS AND TRANSACTIONS  
INCIDENT TO THE CLOSING OF THEIR COMMERCIAL CONCERNS.

RECEIPTS:		£.	s.	d.
Sales of Tea	- - - - -	78	19	4
Excess of Payments in the current year	- - - - -	1,613	7	1
		£.	1,692	6 5
DISBURSEMENTS:				
Charges incurred in realizing the Assets of the Company, and for other purposes connected with the closing of the Company's commercial business :				
Freight	- - - - -	£.	54	4 -
Warehouse charges and miscellaneous	- - -	1,499	-	-
			1,553	4 -
Private Trade; Balances paid Proprietors of Private Trade Goods	- -		139	2 5
		£.	1,692	6 5

ON ACCOUNT OF THE GOVERNMENT OF INDIA.

RECEIPTS:		£.	s.	d.
Bills from India and China, on account supplies to the public service	- - - - -	112,380	16	10
Bills drawn on India for cash received into the home treasury	- - - - -	2,516,951	-	6
Advances made in India on security of the goods of individuals (repaid)	- - - - -	33,062	4	6
From Her Majesty's Government, on account expenses of steam communication with India	- - - - -	50,000	-	-
Poplar fund, and unclaimed prize money of seamen	- -	10,196	-	2
Fee fund for the house and warehouses	- - - -	7,611	12	9
Widow's funds for the home service	- - - -	20,283	11	6
Interest realized from investment of cash balances, less discount on anticipated receipt of remittances and interest allowed on balances of funds in the Company's treasury	-	18,713	1	8
Home bond debt:		£.	s.	d.
Principal of East India bonds issued	565,300	-	-	
Premium (less commission) realized thereon	18,874	11	-	
		584,174	11	-
Sale of stock in the Public Funds	- - - - -	157,772	15	4
			3,511,145	14 3
Balance in favour, 1st May 1844	- - -		1,407,791	13 2
		£.	4,918,937	7 5

DISBURSEMENTS :										
Bills of Exchange from India :					£.	s.	d.	£.	s.	d.
For principal of India Debt - - - - -	-	-	-	-	850	-	-			
For interest of India Debt - - - - -	-	-	-	-	70,772	1	10			
					£. 71,622	1	10			
For effects of deceased officers, and other remittances	-	-	-	-	16,709	7	1			
For interest of Tanjore claims adjudicated - -	-	-	-	-	2,344	8	9			
								90,675	17	8
Dividends on India loan property transferred to the books in England - -	-	-	-	-				129,183	11	8
Advances to the civil, military and other provident funds of India, repayable there - - - - -	-	-	-	-				269,903	-	2
Annuities paid in England, chargeable to the Indian civil annuity funds -	-	-	-	-				187,190	19	6
Expenses attending appeals from local courts in India, recoverable in India -	-	-	-	-				8,162	6	2
Family remittances, payments chargeable against prize funds, and balance of miscellaneous receipts and disbursements on account of India - - -	-	-	-	-				63,030	14	4
Fee fund for the house and warehouses - - - - -	-	-	-	-				7,611	12	9
Widows' funds for the home service - - - - -	-	-	-	-				22,949	14	9
Poplar fund, and unclaimed wages and prize money of seamen - - -	-	-	-	-				12,380	6	10
Unclaimed prize money applicable to Lord Clive's fund, claims paid thereof	-	-	-	-				6,183	12	4
Services chargeable to Her Majesty's Government (including £. 142,004. 3s. 3d., payment of China donation batta) - - - - -	-	-	-	-				143,946	3	7
								941,217	19	9
CHARGES ON THE REVENUES OF INDIA :					£.					
					£.	s.	d.			
Dividends to proprietors of East India stock - - -	-	-	-	-	629,009	3	7			
Interest on the home bond debt - - - - -	-	-	-	-	64,339	4	4			
Military and other public stores exported and to be exported	-	-	-	-	424,951	12	9			
Purchase and equipment of steam vessels, and various expenses connected with steam communication with India	-	-	-	-	62,893	12	9			
Peninsular and Oriental Steam Navigation Company, in aid of the extension of steam communication with India -	-	-	-	-	20,000	-	-			
Her Majesty's Government, on account of the proportion agreed to be borne by the Company of the amount payable under contract between Her Majesty's Government and the Peninsular and Oriental Steam Navigation Company, for an extended communication with India and China - - - - -	-	-	-	-	12,578	2	6			
Transport of troops and stores - - - - -	-	-	-	-	40,296	7	11			
Furlough and retired pay to military and marine officers of the Indian establishments, including off-reckonings -	-	-	-	-	577,636	8	9			
Retired pay and pensions of persons of the late St. Helena establishment - - - - -	-	-	-	-	9,862	18	3			
Paymaster-general of Her Majesty's forces, for claims accrued against the Company, in respect of Queen's troops serving in India - - - - -	-	-	-	-	187,500	-	-			
Payments under Act 4 Geo. 4, cap. 71, on account of retiring pay, pensions, &c. of Her Majesty's troops serving, or having served, in India - - - - -	-	-	-	-	60,000	-	-			
Civil establishments of India, absentee allowances and passage-money - - - - -	-	-	-	-	46,100	2	10			
Her Majesty's mission to the court of Persia (the portion of the charge payable by the Company) - - -	-	-	-	-	12,000	-	-			
Carried forward - - - £.	-	-	-	-	2,147,167	13	8	941,217	19	9

Brought forward - - -	£. s. d. 2,147,167 13 8	£. s. d. 941,217 19 9
DISBURSEMENTS—continued.		
CHARGES, GENERAL, comprising—		
	£. s. d.	
Board of Commissioners for the Affairs of India, salaries of the President and officers of the Board, including superannuation allowances granted by Warrant of the Crown, under Act 53 Geo. 3, c. 155, s. 91 - - -	29,641 - -	
Salaries of the Court of Directors - -	7,581 18 4	
Contingent expenses of the Courts of Directors and Proprietors, consisting of repairs to the East India House, taxes, rates and tithes, coals, candles, printing, stationery, book-binding, stamps, postage, and various petty charges - -	26,505 15 1	
Salaries and allowances of the secretaries and officers of the Court of Directors -	89,903 13 5	
Annuity and pensioners, including compensation annuities under Act 3 & 4 Will. 4, c. 85, and payments in commutation thereof - - -	229,841 5 2	
Haileybury College, net charge - -	7,962 11 4	
Military Seminary at Addiscombe, net charge - - -	3,362 4 6	
	£. s. d.	
Recruiting charges: pay of officers and non-commissioned officers of recruiting establishments, and of recruits previous to embarkation, bounty, &c. -	30,667 9 11	
Repairs, alterations and additions to barracks at Warley -	3,634 15 -	
	34,302 4 11	
Passage and outfit of Governor-general of India, chaplains, Company's officers in charge of recruits, &c., officers of Her Majesty's Service proceeding to join their regiments, volunteers for the pilot service, &c. - - -	21,023 7 7	
Charges of the store department, articles for use in inspection of stores, labour, &c. -	6,840 13 -	
Lord Clive's fund, net charge for pensions, &c. - - -	61,377 5 4	
Law charges - - -	5,895 19 1	
Maintenance of lunatics - - -	5,890 10 7	
Miscellaneous; consisting of expense of overland and ships' packets, maintenance of natives of India, donations to Bengal civil fund and to widows' funds for the home service, donations for services and relief, &c. - - -	8,021 19 8	
	538,150 8 -	
	£. 2,685,318 1 8	
Excess of payments, as before shown in respect of the commercial assets - - -	1,613 7 1	
		2,686,931 8 9
	£.	3,628,149 8 6
Balance in favour, 30 April 1845 - - -		1,290,787 18 11
	£.	4,918,937 7 5

## — No. 2. —

## ESTIMATE of the RECEIPTS and DISBURSEMENTS of the HOME TREASURY of the EAST INDIA COMPANY, from 1st May 1845 to 30th April 1846.

RECEIPTS:		£.
Remittances from India through Her Majesty's Government, on account of ordinary supplies to Her Majesty's Service - - - - -		70,000
Ditto - - in all other modes - - - - -		3,700,000
To be received from Her Majesty's Government in respect of steam communication with India - - - - -		50,000
Ditto - - - ditto - - on account expenses of the expedition to China - - -		255,000
Interest to be realized from investment of cash balances - - - - -		11,000
		4,086,000
Balance of Cash, 1 May 1845 - - -		1,290,788
	£.	5,376,788
DISBURSEMENTS:		
Bills of Exchange from India:		
In consideration of the transfer to be made under treaty with the King of Denmark, of the Danish settlements on the Continent of India, with all the public buildings and Crown property thereunto belonging to the East India Company - - -	£.	
	125,000	
For interest of India debt and on other accounts - - -	100,000	
		225,000
Dividends on India loan property transferred to the books in England - - -		132,900
Advances to be made in England to the civil, military and other provident funds of India, repayable there - - - - -		270,000
India annuity funds; civil service annuities, payable in England - - -		197,000
Expenses attending appeals from local courts in India, recoverable in India - - -		24,000
Family remittances, payments chargeable against prize funds, and balance of miscellaneous receipts and disbursements on account of India - - -		82,500
Poplar fund: excess of the charge thereon above the current income, causing a diminution of the capital to the same extent - - -		3,860
CHARGES ON THE REVENUES OF INDIA:		
	£.	
Dividends to the Proprietors of East India stock - - - - -	630,000	
Interest on the home bond debt - - - - -	68,988	
Military and other public stores, exported and to be exported - - -	457,193	
Purchase and equipment of steam vessels, and various expenses connected with the steam communication with India - - -	173,000	
Proportion of the amount payable under contract between Her Majesty's Government and the Peninsular and Oriental Steam Navigation Company, for an extended communication with India and China - - -	65,100	
Transport of troops and stores - - - - -	48,000	
Furlough and retired pay to military and marine officers of the Indian establishments, including off-reckonings - - - - -	592,000	
Retired pay and pensions of persons of the late St. Helena establishment - - - - -	9,000	
Paymaster-general of Her Majesty's forces, for claims accrued against the Company in respect of Queen's troops serving in India - - -	450,000	
Payments under Act 4 Geo. 4, c. 71, on account of retiring pay, pensions, &c. of Her Majesty's troops serving or having served in India - - -	60,000	
Civil establishments of India; absentee allowances and passage-money - - -	40,000	
Her Majesty's mission to the court of Persia (portion of the charge payable by the Company) - - - - -	12,000	
Her Majesty's establishment in China (portion of the charge payable by the Company) - - - - -	4,784	
Charges general; being for home establishments and expenses, civil, military and maritime pensions, recruiting charges, allowances for outfit, &c. - - - - -	530,000	
		3,140,065
	£.	4,075,325
EXTRAORDINARY:		
Warrants passed the Court unpaid, and other arrears, on the 1st May 1845, not included above - - - - -		296,726
	£.	4,372,051
Balance in favour, 30 April 1846 - - -		1,004,737
	£.	5,376,788



## — No. 3. —

AN ACCOUNT of the DEBTS and CREDITS in *England* of the Government of *India*, on the 1st May 1845.

DEBTS :		£.	£.
Bills of exchange unpaid from India - - - - -		22,658	
Dividends on stock of the five per cent. transfer loan, standing in the books in England unpaid - - - - -		4,503	
Warrants passed the Court unpaid, and other arrears - - - - -		393,831	
Amount owing for export stores - - - - -		63,600	
Unclaimed prize-money, applicable to Lord Clive's fund (Act 1 & 2 Geo. 4, c. 61, and 9 Geo. 4, c. 50), bearing interest at five per cent. per annum - - - - -		58,002	
Poplar fund, bearing interest at four per cent. per annum - - - - -	£. 218,493		
Unclaimed prize-money, applicable to Poplar fund (Act 1 & 2 Geo. 4, c. 61, and 9 Geo. 4, c. 50), bearing interest at four per cent. per annum - - - - -	33,966		
		252,459	
Her Majesty's Government; due per estimate on account charges of Queen's troops serving in India, after taking credit for sums due from Government to the Company on account of the expedition to China - - - - -		441,155	
Dividends on the capital stock unclaimed - - - - -		37,387	
Interest on bonds unclaimed, including growing interest - - - - -		16,053	
Home bond debt, charged upon the revenues of India by 9th sec. 3 & 4 Will. 4, c. 85 :			
Principal bearing interest at £. 3 per cent. per annum - - - - -	£. 2,299,600		
Principal not bearing interest - - - - -	21,792		
		2,321,392	
			3,611,040
Balance of outstanding debts and liabilities of the late Commercial branch - - - - -			7,362
		£	3,618,402
CREDITS :			
The cash balance on 1st May 1845 - - - - -		1,290,788	
Stock and annuities in the public funds, standing in the Company's name, valued at the market prices on 30th April 1845 - - - - -		727,768	
Military and other public stores remaining in England unshipped, 1st May 1845 - - - - -		131,687	
Bills of exchange drawn in the Company's favour, unpaid - - - - -		195,610	
Owing from sundry persons for advances, repayable in England - - - - -		6,910	
Balances in the hands of officers of the home establishment, of sums advanced to pay charges - - - - -		800	
Computed value of buildings and land; viz.			
The East India House - - - - -	£. 268,200		
The East India College at Haileybury, and Military Seminary at Addiscombe - - - - -	177,219		
Warley Barracks, near Brentwood, Essex - - - - -	38,000		
The warehouses and premises in Leadenhall-street, and in New-street, Bishopsgate (store departments) - - - - -	19,000		
		502,419	
		£	2,855,982
Brought down amount of Debts - - - - -		£. 3,618,402	
" " Assets - - - - -			2,855,982
Debts in excess - - - - -		£. 762,420	

The above, on the one hand, is exclusive of the amount owing to proprietors for their capital stock; and, on the other hand, of the guarantee or security fund, formed under the provisions of the Act 3 & 4 Will. 4, c. 85.

## — No. 4. —

A LIST of the several ESTABLISHMENTS of the East India Company in *England*, and the SALARIES and ALLOWANCES payable by the Court of Directors in respect thereof, on the 1st May 1845. (Act 3 & 4 Will 4, c. 85, s. 116.)

	Number.	Salaries and Allowances.
		£. s. d.
Secretary's office: consisting of a secretary, deputy secretary, five assistants in the respective branches of minuting and correspondence, accounts, pay, audit and marine; thirty-four clerks; one clerk in charge of the proprietor's room; one superintendent of extra clerks; a conductor of the correspondence relating to the vegetable productions of India; fourteen extra clerks; eighteen writers; one assistant elder; and sixteen messengers - - - - -	93	45,258 - -
Examiner's office: consisting of an examiner of India correspondence; an assistant examiner; two assistants to the examiner; two clerks in the correspondence department; four senior clerks, eight clerks, one superintendent of extra clerks, one registrar of India books and records, three extra clerks, sixteen writers and nine messengers -	48	22,158 - -
Office of the secretary in the military department: consisting of a secretary, an assistant, seven clerks, six extra clerks, four writers and four messengers - - - - -	23	10,901 - -
Library and museum: the librarian (who is also Oriental examiner at the East India College and at the Military Seminary), the keeper of the museum, an extra writer and two messengers - - - - -	5	1,290 - -
Clerk of the works and one messenger - - - - -	2	481 - -
Storekeeper's department: consisting of an inspector of stores, one clerk, one sub-inspector, two examiners of cloths, nine examiners and three assistant examiners of military stores, one book-keeper, one examiner of stationery, one extra clerk, four writers, a carpenter, and one messenger - - - - -	26	6,301 - -
Standing counsel - - - - -	1	500 - -
Solicitor - - - - -	1	500 - -
Examining physician - - - - -	1	470 - -
Examiner of veterinary instruments - - - - -	1	100 - -
Geographer - - - - -	1	200 - -
Chaplain to Poplar hospital - - - - -	1	100 - -
Doorkeepers and court-room messengers - - - - -	5	1,270 - -
Door-porters, messengers and fire-lighters - - - - -	25	2,125 - -
Fireman - - - - -	1	100 - -
Waterman - - - - -	1	70 - -
Housekeeper and assistant - - - - -	2	180 - -
Charwomen - - - - -	8	300 - -
East India College: the principal, nine professors and forty-three public servants - - - - -	53	7,086 - -
Military Seminary: the public examiner and inspector, lieutenant-governor, twenty-one professors, assistant professors, masters, staff and other officers, and thirty-five non-commissioned staff and public servants - - - - -	58	9,467 - -
Military dépôt at Warley: comprising seven officers and twenty-nine non-commissioned staff - - - - -	36	4,379 - -
Recruiting districts: five officers and twenty-eight non-commissioned staff - - - - -	33	3,232 - -
TOTAL Number of Persons - - -	425	116,468 - -

## — No. 5. —

AN ACCOUNT of New or Increased SALARIES, ESTABLISHMENTS or PENSIONS, payable in  
Great Britain, granted or created between 1st May 1844 and 1st May 1845.

	Amount per Annum.
<b>SALARIES:</b>	
Additional pay to Major Talbot Ritherdon, the staff captain at the Military Seminary - - - - -	£. s. d. 50 - -
Increase of salary to Mons. Marin de la Voye, the French master at the Military Seminary - - - - -	50 - -
Additional pay to officiating minister at the Company's dépôt at Warley - -	20 - -
Increase of salary to staff serjeant at dépôt appointed to act as clerk to chaplain	6 6 -
Ditto - - to the Ordnance medical officer at Chatham, for medical services to Company's officers and men, under instruction at the Royal Engineer Establishment at Chatham - - -	20 - -
Ditto - - to Mr. John Douglas Close, one of the senior clerks in the Examiner's office - - - - -	160 - -
£.	306 6 -
<b>ESTABLISHMENT:</b>	
An additional staff serjeant to the dépôt at Warley, with the pay of 2s. 5½d. a day, or - - - - -	44 9 8½
An assistant examiner in the small-arm branch of the Military Store Department, East India House - - - - -	110 - -
£.	154 9 8½
<b>PENSIONS:</b>	
Mrs. Eliza Pottinger, stepmother of Major Eldred Pottinger, c.b., of the Bombay Establishment, 100 <i>l.</i> per annum, and each of her four children 20 <i>l.</i> per annum, as a mark of the Court's testimony of his valuable services; and in consequence of the pecuniary deprivation which his family have sustained by his premature death, and by the death of two other sons in the service; and in consideration also of the pecuniary distress of the family - - - - -	180 - -
Mr. William Long, late a lieutenant in the Bombay army; with reference to his state of mind under which he was suffering when he committed the acts for which he lost the service, as shown by medical testimony, the strong testimonials to his character and services, and his present state of absolute destitution - - - - -	50 - -
Major-general Sir William Nott, g.c.b., of the Bengal Establishment, as a special mark of the sense entertained by the Court of the foresight, judgment, decision and courage evinced by him throughout the whole period of his command at Candahar, and during his brilliant and successful march thence, by Ghuzni, to Cabul, which so greatly contributed to the triumphant vindication of the honour of the British nation, and to the maintenance of its reputation - -	1,000 - -
Mrs. Sarah Robins, widow of Joseph Robins, for thirty-two years one of the Company's watermen on the Gravesend station - - - - -	20 - -
Mr. James Court Robinson, formerly a lieutenant in the Bengal army, in consideration of his former service of between eight and nine years, his having been compelled by sickness to return to England, where his efforts to obtain employment have been fruitless, and of his present extreme destitution - - - - -	70 - -

PENSIONS—continued.		Amount per Annum.		
		£.	s.	d.
Miss Mary Hyder, daughter of Moonshee Ghoolam Hyder, formerly Persian writing-master at the East India College, on a compassionate view of her case, her health being precarious, and her situation one of entire destitution; the pension of 15 <i>l.</i> per annum, granted to her on 23d July 1823, and which ceased on her attaining the age of 21, renewed from Lady-day 1844	- - -	15	-	-
Mr. Charles Mann, late a lieutenant in the Madras army, in consideration of his general character for humanity, of his previous services, and the destitution to which he would otherwise be brought; restored to the service, and placed on the Retired List, with an allowance of	- - - - -	50	-	-
Mr. Charles Masson, in consideration of the services which he rendered to the Government of India, and the dangers and sufferings which he underwent on its account, or in consequence of its acts	- - - - -	100	-	-
Mrs. Ann Baillie, in consideration of her present state of severe distress, and of her having been the widow of Mr. Brunton, who, prior to his removal from the Madras cavalry, in which he held the rank of Captain, had been nineteen years in the Company's service; granted a special allowance during widowhood of	- - -	25	-	-
Mr. Henry Enderwick, formerly a mechanic in the Bombay Mint, to whom on his return from India in 1836, in consequence of loss of health in the service, a pension of 80 <i>l.</i> per annum was granted for a limited period, which terminated on 30th November 1844; that as there is now little or no improvement in his health, and no likelihood of his being able to maintain himself by his own labour and exertions; in consideration also of his good conduct in the service, especially on the occasion when the other mechanics, with one exception, refused to work; granted during pleasure	- - - - -	60	-	-
The widows and children of the under-mentioned officers who fell in action at the battle of Meanee, admitted to the benefit of the special pecuniary grants, extended by the Court's military despatches to India, of 7th June and 4th December 1844, to the families of officers of the Company's service, killed in action with the enemy; viz.				
Mrs. Elizabeth Sarah Jackson, widow of Brevet-Major R. H. Jackson, of the Bombay army, during widowhood	- - - - -	70	-	-
Master William Henry Jackson, son of the above, till 18	- - -	16	-	-
Mrs. Elizabeth Lucy Cookson, widow of Brevet-Captain W. Cookson, of the 9th Regiment Bengal Light Cavalry, during widowhood	- - -	60	-	-
Misses Fanny Margaret and Julia Mary Cookson, daughters of the above, 12 <i>l.</i> per annum each, till 21 or marriage, whichever shall first happen	- - - - -	24	-	-
		170	-	-
Major-general Augusto Pinto de Moraes Sarmento, in consideration of his services whilst in command of the Portuguese Grenadier Battalion, embodied in 1804, when the British Government had military occupation of Goa, and of his present reduced circumstances; granted for the remainder of his life	-	150	-	-
Mr. George Noton, late coroner at Bombay, with reference to the records and testimonials commendatory of his conduct during a service of 35 years, and the present state of his bodily infirmities	- - - - -	120	-	-
Lieutenant James Murray, late of the Bengal Establishment, in consideration of the distressing nature of the malady under which he labours, and which has been brought on by his service in China; granted in addition to his half-pay on retirement	- - - - -	27	-	-
Lieutenant J. L. P. Trapaud, formerly on the Madras Establishment, in consideration of its being necessary for him to have an attendant constantly with him; granted in addition to his half-pay on retirement	- - - - -	50	-	-
Mr. John T. Lugard, late a Captain in the 40th regiment Madras Native Infantry (who was dismissed by sentence of a Court-martial); in consideration of his long and uninterrupted service with his regiment, of 22 years, of the strong recommendation of the Court-martial in his behalf, and of his present state of destitution	- - - - -	100	-	-



—No. 8.—

To the FAMILIES of DECEASED OFFICERS, &c., of the COMPANY'S MARITIME SERVICE,  
in the form of ANNUITIES.

NAME.	DESCRIPTION.	AMOUNT.
		£. s.
Mrs. Anna Drayner - -	widow of a chief mate -	64 - per ann. during widowhood.
Bayley E. Drayner - -	son of the above - -	12 16 „ till 18 years old.
Mrs. Ann Beveridge - -	widow of a surgeon - -	56 - „ during widowhood.
Mrs. Ellen Buttanshaw -	widow of a chief mate -	64 - „ during widowhood.
Miss Mary H. Grahame -	daughter of a surgeon -	11 4 „ till 18 years old.
Mrs. Elizabeth Knight - -	widow of a carpenter -	10 - „ during widowhood.
Mary E. Knight - - -	daughter of the above -	2 - „ till 18 years old.
James William Knight - -	son of the above - -	2 - „ till 18 years old.
	£.	222 -

(Errors excepted.)

East India House, }  
31 May 1845. }

JAMES C. MELVILL,  
Secretary.

EAST INDIA.

ACCOUNTS of the Total Gross Revenue of  
INDIA ; of BALANCES in the several Treasuries,  
and other Accounts relating to the REVENUE of  
INDIA.

(*Mr. Stuart Wortley.*)

A RETURN of the HOME ACCOUNTS of the  
EAST INDIA COMPANY, presented pursuant to  
Act 3 & 4 Will. 4, c. 86.

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*Ordered, by the House of Commons, to be Printed,  
24 June 1845.*

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406.

*Under 4 os.*

## EAST INDIA.

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RETURNS to Three several Orders of the Honourable The House of Commons,  
dated respectively 7 and 8 April 1845;—for,

- “ I. COPY of ACT XIV. of 1843, passed by the Governor-General of India in Council, on the 5th day of August 1843, for ‘regulating the Levy of CUSTOMS DUTIES and the Manufacture of SALT in the ‘North Western Provinces of the Presidency of *Bengal*,’ and of any MINUTE or RESOLUTION of COUNCIL recorded at the time of passing the said Act; together with an Account of the several Articles whereon Duties of Import and Export respectively were levied on the North Western Frontier, before and after passing of the said Act.”
- “ II. COPY of ACT VI. of 1844, passed by the Governor-General of India in Council, on the 16th day of March 1844, for ‘abolishing the Levy of TRANSIT or INLAND CUSTOMS DUTIES, for revising the ‘Duties on Imports and Exports by Sea, and for determining the Price at which SALT shall be sold ‘for Home Consumption within the Territories subject to the Presidency of *Fort St. George*,’ and of any MINUTE or RESOLUTION of COUNCIL recorded at the time of passing the said Act; together with an Account of the several Duties which were repealed or modified under the Provisions of the said Act.”
- “ III. COPY of ACT XVI. of 1844, passed by the Governor-General of India in Council, on the 27th day July 1844, ‘for increasing the EXCISE and IMPORT DUTIES heretofore payable to the Government on ‘SALT manufactured within or imported into the Territories subject to the Government of the ‘Presidency of *Bombay*,’ and of ACT XIX. of 1844, passed by the Governor-General of India in Council, on the 14th day of September 1844, ‘for abolishing Town Duties and Mookauts, and all ‘Taxes upon Trades and Professions within the Presidency of *Bombay*;’ also, of any RESOLUTIONS or MINUTES of COUNCIL recorded at the time of passing the said Acts, together with an Account of the several Town and other Duties which have been repealed or modified under the Provisions of the said Acts.”
- “ IV. STATEMENT of the estimated LOSS and GAIN to the Revenues of the several Presidencies, in consequence of the said Alterations of Duties.”
- “ V. COPY of the ENGAGEMENTS severally entered into in 1843 by the Rajah of Bichaneer and the Nawab of Bahawulpore, with respect to the Levy of Duties on Goods in transit through their respective Territories, and to the Maintenance of the Commercial Road between Delhi and Bahawulpore.”
- “ VI. COPY of the ENGAGEMENT of the Nawab of Bahawulpore for the Cession of a District connecting the British Territories with the Sutlej.”

(*Mr. Stuart Wortley.*)

- VII. “ COPY of the DRAUGHT ACT of the Legislative Council in Calcutta, for altering the IMPORT DUTIES, published in the Government Gazette at Calcutta, 8 February 1845.”

(*Mr. Hume.*)

- VIII. “ A COPY OF EXTRACTS of a DESPATCH from the Court of Directors of the East India Company to the Governor-General of India in Council, dated 17th June (No. 5) 1837, respecting the Abolition of the TRANSIT and TOWN DUTIES in the Districts subject to the Governments of *Bengal* and *Agra*, and the Enactment of the India Legislative Act, No. XIV. of 1836, effecting various Alterations in the Rates of Duties levied upon Sea-borne Commerce.”

COPY “ of a DESPATCH from the Court of Directors to the Governor-General in Council, dated 3d July (No. 9) 1844, respecting the Enactment of Act, No. VI. of 1844, abolishing the Transit and Inland Custom Duty.”

COPY “ of a DESPATCH from the Court of Directors to the Governor-General, dated 4th December (No. 15) 1844, conveying Instructions to increase the Rates of SEA CUSTOMS in India.”

(*Viscount Jocelyn.*)

East India House, }  
11 April 1845. }

JAMES C. MELVILL.

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Ordered, by The House of Commons, to be Printed,  
28 April 1845.

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East India House, }  
11 April 1845. }

T. L. Peacock,  
Examiner of India Correspondence.

## EAST INDIA SEA AND INLAND CUSTOMS DUTIES.

### I.—Bengal North West Provinces.

I.  
Bengal North West  
Provinces.

FORT WILLIAM, Home Department, Legislative, the 5th August 1843.

THE following extract from the proceedings of the Right honourable the Governor-general of India in Council, in the Legislative Department, and published for general information.

Read again the Draft Act for regulating the levy of Customs Duties, and the manufacture of Salt in the North Western Provinces of the Presidency of Bengal.

By this Act will be abolished the duties on 121 articles, including piece-goods, and all embroidered goods, iron, silk, shawls, indigo, tobacco, oil and oil seeds. Of the duties to be abolished, those on 48 articles produced on an average of the three years ending in 1841-42, an aggregate receipt of only 1,500 rupees. Resolution.

The additional duty to be imposed by the Act on the import of salt into the North Western Provinces, will only raise the duty generally to two-thirds of the amount of that already levied in Bengal, and to the eastward of Allahabad to the level of the Bengal duty.

The additional powers given to the Customs Department and the increased strength which will be given to the Customs establishment will, it is to be hoped, prevent any increase of smuggling on the North West frontier, and it may be expected that the result of a measure, which gives almost entire freedom to internal trade, will be a considerable increase of the revenue.

Resolved accordingly, That the Act in question be passed.

#### ACT No. XIV. OF 1843.

Passed by the Right honourable the Governor-General of India in Council,  
on the 5th August 1843.

AN ACT for regulating the levy of Customs Duties, and the Manufacture of Salt in the North Western Provinces of the Presidency of Bengal.

I. It is hereby enacted, that Regulation XVI. 1829, Act II. 1838, and so much of Regulation IX. 1810, and of any other Regulation and Act, as affects the collection of customs duties, or the manufacture of salt in the North Western Provinces of the Presidency of Bengal, shall be repealed from the 1st day of September 1843.

II. And it is further enacted, that from and after the day above-mentioned, the following and no other duties of customs, shall be leviable upon the import and export of articles into and from the North Western Provinces of the Presidency of Bengal: that is to say,

On the import of salt, of all descriptions, two rupees per maund, and a further duty of one rupee per maund on the transmission thereof to the eastward of Allahabad.

On the import of cotton, uncleaned, four annas per maund; cleaned, eight annas per maund.

On the export of misree, kund, chenee, and all clayed and refined sugar, eight annas per maund; goor, rāb, sheerah, and all unclayed and unrefined sacchacrine produce, three annas per maund.

The import of sugar into any part of the said Provinces, is, and shall remain prohibited.

**I.**  
**Bengal North West**  
**Provinces.**

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III. And it is further enacted, that it shall be lawful for the Government of the said Provinces, from time to time to make and issue such orders as may be deemed expedient for the collection of the aforesaid duties, in such manner, and upon such line or lines, and at such places on or near such line or lines, as may seem fit, and all such orders shall have the same force as if they formed a part of this Act, from the date notified in the Gazette wherein they shall be published.

IV. And it is further enacted, that from and after the 1st day of September 1843, the manufacture of alimentary salt throughout the North Western Provinces of the Presidency of Bengal, without the express sanction of the Government, is prohibited; and that any person engaged in the manufacture of such salt, or preparing or causing to be prepared works for the manufacture of such salt, without such sanction, and all zemindars or other proprietors of land, or their agents, conniving at such illicit manufacture, shall, on conviction by the magistrate, within the limits of whose district the offence may have occurred, be punished by a fine not exceeding 500 rupees, and on nonpayment of such fine, by imprisonment not exceeding six months with or without hard labour, and that all works at which such manufacture shall have been conducted, or which are designed for such manufacture, shall be destroyed, and any salt which may be manufactured or stored thereat, shall be seized and confiscated.

V. And it is further enacted, that it shall be lawful for the collectors of customs, and the collectors of land revenue, within their jurisdictions, to destroy all works for the manufacture of salt, and to seize the salt stored thereat, and to apprehend the persons concerned in the manufacture thereof, and make them over for trial to the magistrate within the limits of whose district the offence may have occurred.

VI. It is further enacted, that all sugar imported into the said Provinces, and all articles imported or exported without payment of the duties imposed by this Act, or in contravention of the orders which may be made and issued under the provisions thereof, and all boats, carriages and conveyances, and all animals used in transporting the same, shall be liable to be seized and confiscated in the manner hereinafter mentioned.

VII. And it is further enacted, that all persons evading or attempting to evade the payment of the duties imposed by this Act, and all persons aiding or abetting such attempts or evasions, or in any manner acting in contravention of this Act, or of any order made and issued under the provisions thereof, and all zemindars and other proprietors of land, or their agents, who shall wilfully connive at such attempts or evasions, or aid such acts, shall, on conviction by the magistrate within the limits of whose district the offence may have occurred, be punished by a fine not exceeding 500 rupees, and on nonpayment thereof, by imprisonment not exceeding six months with or without hard labour.

VIII. And it is further enacted, that it shall be lawful for all officers of the Customs Department to search any carriages and conveyances, and any packages, upon reasonable grounds of suspicion that such carriages, conveyances or packages contain any articles made subject to duty, or prohibited to be imported by this Act, and to detain all such articles as may be liable to confiscation under the provisions thereof.

IX. And it is hereby enacted, that whenever any articles or goods shall be seized or detained under the provisions of this Act, the collector or deputy-collector of land revenue or customs, within whose jurisdiction such seizure or detention shall occur, shall, with all practicable expedition, report the case for the determination of the Commissioner of Revenue, and it shall be lawful for such Commissioner to declare such articles or goods to be confiscated, or to impose such lesser penalty in lieu thereof, as to him may seem fit.

X. And it is hereby enacted, that it shall be lawful for all officers in the Customs Department to apprehend any person, upon reasonable grounds of suspicion that such person is liable to punishment under this Act, and to make him over for trial with all practicable expedition, to the magistrate within whose jurisdiction the offence may occur.

XI. Provided always, that any officer of the Customs Department who shall, without reasonable grounds of suspicion search any carriage or conveyance, or any package

package, shall upon conviction thereof before the magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding 250 rupees, which fine shall be paid over to the party aggrieved, and on non-payment of such fine, with imprisonment not exceeding three months; and provided also, that any officer of the Customs Department who shall, under colour of this Act apprehend any person, without reasonable grounds of suspicion that such person is liable to punishment under this Act, shall, upon conviction before the magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding 500 rupees, which fine shall be paid over to the party aggrieved, and on nonpayment of such fine, with imprisonment not exceeding six months.

XII. And it is hereby enacted, that all magistrates, or persons exercising the powers of magistrate, shall be competent to receive and determine all charges against persons thus made over to them for trial on account of offences against this Act, and that all sentences passed in pursuance of this Act, shall be open to appeal under such rules as may from time to time be laid down for the cognizance of appeals in ordinary cases.

XIII. And it is hereby enacted, that all officers of police, and all officers of the Government engaged in the collection of the land revenue, are empowered and required to aid and assist the officers of the Customs Department in the execution of this Act.

XIV. And it is further enacted, that nothing in this Act contained shall apply or be deemed to apply to the Saugor and Nerbudda Territories, or to the district of Ajmere.

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MEMORANDUM.

THE following is a List of the Articles which were subject to duty on passing the North West frontier line, previously to the enactment of Act XIV. of 1843 and which, under that law, are exempted from the payment of customs duties; viz.—

Ajivaen, or iowaen.  
Allspice, or pimento.  
Alkali.  
Aloe wood, or ugger.  
Alum.  
Ambergris.  
Anise mowrie, or souf.  
Arsenic, white, red or yellow.  
Assafœtida.  
Altah.  
Awlroot, or movinda.  
Beetle nuts.  
Blankets and sooegs.  
Boots, shoes and slippers.  
Borax and tincal.  
Brass, unwrought.  
Brimstone, or sulphur.  
Brocades and embroidered goods.  
Bukum, or sappin.  
Balchur.  
Caleezeerahar nigellah.  
Camphor.  
Cardamums.  
Carpets and settringees.  
Cassia.  
Chauhs, or sauhs.  
Cheyrateh.  
Chowrees.  
Chukrassy wood.  
Civet.  
Cloves.  
Cochineal, or cremdanah.  
Cocoa nuts, with or without husk.  
Columbo root.  
Coosomfool, or safflower.  
Copaï, or kahrobah.

Copper, unwrought.  
Coral.  
Coriander, or dhunncah.  
Cotton seed, or benowlut.  
Cotton yarn.  
Cow tails.  
Cummen, or jeeruh.  
Cubeb cheenee.  
Dunumer, or rosin.  
Dhoossa, or toosse.  
Dhye flower.  
Dry ginger.  
Elephants' teeth.  
Frankincense, or gundeberozah.  
Fringes, tape or thread.  
Furs.  
Gloves, &c.  
Galbanum.  
Gold and silver tissues, lace and thread.  
Gopee muttee, or yellow ochre.  
Gum arabic.  
Gummes, or ganny bog.  
Hemp and twine.  
Hides, raw.  
Hookas and hooka snakes.  
Hursingar flower.  
Indigo.  
Indrunked, or rungamuttee.  
Iron.  
Jarvol timber, red or white.  
Jutta munsee, or spikenard.  
Keoura water.  
Kutch.  
Kullinjun.  
Lac, stick, shell, cake, &c., seed or jeory.  
Lead.

I.  
Bengal North West  
Provinces.

Looh.  
Loban, or Benjamin.  
Long pepper and its root, called peeplamoor.  
Leather.  
Mace.  
Madder, or mujjeet.  
Mastic.  
Matchlocks.  
Malabathum cuf, or tajeput.  
Mungrellah.  
Mynsul.  
Musk.  
Myrobolans, or butrea huerah and ownlah.  
Myrrh.  
Mooltanee muttee.  
Natron, or sujje muttee.  
Nutmegs.  
Oil seed and oils, vegetable and animal.  
Otter, or essential oils.  
Paper.  
Peoree.  
Pepper, black and white.  
Pewter.  
Piece goods.  
Pipe staves.  
Prussian blue.  
Putchu paut.  
Pice.  
Poppy seed.  
Quicksilver.  
Silk, raw and wound.  
Raw silk, tushah and chussum.  
Rose water.

Russee Muttee.  
Saffron.  
Salammoniac.  
Saltpetre.  
Sandal wood, red, white or yellow.  
Saul timber.  
Senna.  
Shawls.  
Shields.  
Sissoo timber.  
Samdoor, or minium.  
Sitsaul wood.  
Soap.  
Soondry timber.  
Spirits.  
Steel, wrought or unwrought.  
Stone plates.  
Storax.  
Spices.  
Swords.  
Tin.  
Tobacco.  
Tallow.  
Toon wood.  
Toond flower.  
Tooteah, or vitriol.  
Tuggur.  
Vermilion.  
Verdigris.  
Vidry ware.  
Wax and wax candles.  
Wool.

The only duties now leviabie on that line are,—

On the import of salt, two rupees per maund, and a further duty of one rupee on passing Allahabad :

On the import of cotton, uncleaned, four annas per maund ; cleaned, eight annas :

On the export of clayed or refined sugar, eight annas per maund ; on unclayed or unrefined saccharine produce, three annas per maund, the importation of sugar being prohibited.

East India House, }  
10 April 1845. }

(signed) *T. L. Peacock,*  
Examiner of India Correspondence.

II.  
Madras.

## II.—Madras.

FORT WILLIAM, Financial Department, 16 March 1844.

## NOTIFICATION.

THE following Resolution passed by the Right honourable the Governor-general in Council in the Financial Department is published for general information.

## Resolution.

The Governor-general in Council has decided on removing the restrictions that have so long borne with oppressive weight on the internal commerce of the Presidency of Madras.

The Governor-general in Council has deemed this a fit opportunity for revising the sea customs tariff of that Presidency, and for assimilating the rates of duty levied on imports and exports by sea, as far practicable, to those in force at the other principal ports of India.

These extensive measures cannot be carried into effect without a loss of present income, so serious as to compel the Government of India to endeavour to meet it from other sources of revenue.

In

In consideration of the entire removal of all restrictions upon its inland trade, and of Madras being placed in this respect upon an equality with the rest of India, the Governor-general in Council deems it not unreasonable that the impost on salt in the Madras territories should be raised to rate more in accordance with the tax on the same article borne by other divisions of the Indian empire, and the sale price of salt will accordingly be increased in a moderate degree throughout the whole of the provinces subordinate to the Presidency of Madras.

But, though the Governor-general in Council hopes, principally by this means, to provide an equivalent for the certain loss of revenue that must result from the extension of freedom to the inland trade of the Presidency of Madras, experience alone can determine how far his expectations may be realized.

In the event of its proving necessary, eventually, to resort to additional modes of supply to meet the loss incurred, the Governor-general in Council would look to the sea customs of India as an available source of further income, and however reluctant he would be to impose a new burthen upon foreign commerce, he cannot but feel that the Government of India may be compelled to have recourse to an increase of the duties, both on imports and exports by sea, at all the Indian Presidencies, should a measure of this nature be pressed upon it by the financial exigencies of the State.

Meanwhile, the Governor-general in Council contemplates with unmixed satisfaction a measure of relief, which, though attended with absolute present loss of revenue, promises most powerfully to develop those sources of wealth, which must ever increase, in proportion as encouragement is afforded to the free interchange of the products of the soil of India, and of the manufacturing industry of its people.

By order of the Right Honourable the Governor-general in Council,

(signed) *J. A. Dorin,*  
Secretary to the Government of India.

(signed) *T. R. Davidson,*  
Officiating Secretary to Government of India.

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### ACT No. VI. of 1844.

Passed by the Right Honourable the Governor-General of India in Council, on the 16th March 1844.

AN ACT for abolishing the levy of Transit or Inland Customs Duties, for revising the Duties on Imports and Exports by Sea, and for determining the Price at which Salt shall be sold for Home Consumption within the Territories subject to the Government of Fort St. George.

I. It is hereby enacted, that from the first day of April 1844, such parts of Regulation X. of 1803, Regulation I. of 1812, Regulation III. of 1812, Regulation VI. of 1812, and Regulation III. of 1821, of the Madras Code, and all such parts of any Regulations of the said code, as prescribe the levy of transit or inland customs duties at any town or place within the limits of the Presidency of Fort St. George, shall be repealed.

Rescinding all Regulations of the Madras Code imposing inland, transit and town duties.

II. And it is hereby enacted, that Regulation IX. of 1803, with exception of sections 55 to 70, both inclusive, Regulation XI. 1803, Regulation XIV. of 1808, Regulation XV. of 1808, with exception of section 5; Regulation II. of 1812, with exception of sections 15 and 17; Regulation IV. of 1812, and such parts of Regulation I. of 1813 of the same code, as relate to the rates of duty and drawback on spirituous liquors imported or exported by sea, also Regulation II. of 1816, Regulation II. of 1818, Regulation III. of 1818, Regulation IV. of 1819, and Regulation VII. of 1819, together with the schedules appended thereunto, excepting in so far as any of these Regulations rescind any former Regulations, either in part or in whole, of the Madras code, and likewise the provisions of any kind contained in the foregoing or any other Regulations of the Madras code, for fixing the amount of duty to be levied on goods imported or exported by sea, at any place within the limits of the Presidency of Fort St. George, or the drawback payable on the same, shall be repealed.

Rescinding Regulations of the Madras Code imposing sea customs duties, with certain exceptions.

Proviso.

III. Provided always, that nothing contained in the two preceding sections of this Act shall be construed to prevent the levy of any municipal tax, or of any toll on any bridge, road, canal, pier or causeway, for repair and maintenance of the same; or of any fee for the erection and maintenance of lighthouses.

Duties to be levied on goods imported by sea into the Presidency of Fort St. George.

IV. And it is hereby enacted, that duties of customs shall be levied on goods imported by sea into any place within the territories subordinate to the Government of the Presidency of Fort St. George, after the said first day of April 1844, according to the rates specified in Schedule (A.) annexed to this Act, with the exceptions specified therein, and the Schedule, with the notes attached thereto, shall be taken to be a part of this Act.

Duties to be levied on goods exported by sea from the Presidency of Fort St. George.

V. And it is hereby further enacted, that duties of customs shall be levied upon country goods exported by sea from any ports of the Presidency of Fort St. George, after the said first day of April 1844, according to the rates specified in Schedule (B.) annexed to this Act, with the exceptions therein specified, and the said Schedule, with the notes attached thereto, shall also be taken to be a part of this Act.

Duties to be levied on goods passing by land into or out of Foreign European Settlements, adjacent to the Presidency of Fort St. George.

VI. And it is hereby enacted, that duties of customs shall be levied on goods passing by land into or out of Foreign European settlements, situated on the line of coast within the limits of the Presidency of Fort St. George, at the rates prescribed in the Schedules of this Act for goods imported or exported on foreign bottoms at any British port in that Presidency.

The Governor in Council may declare, by notice in the Gazette, the territory of Native Chiefs, beyond the jurisdiction of the courts, to be foreign.

VII. And it is hereby enacted, that it shall be lawful for the Governor in Council of the Presidency of Fort St. George to declare, by notice to be published in the Gazette of that Presidency, that the territory of any Native Chief, not subject to the jurisdiction of the courts and civil authorities of that Presidency, shall be deemed to be foreign territory, and to declare goods passing into or out of such territory, liable either to the duty fixed for British or for foreign bottoms, as the said Governor in Council may think fit.

Customs chokes may be established for the levy of duties on goods passing into or out of foreign territory.

Powers of officers at such chokes.

Goods not to be allowed to pass across the frontier line without a certificate of the duty thereon having been paid in full.

VIII. And it is hereby enacted, that for the levy of duties of customs as above provided on goods exported by land to, or imported by land from such foreign territories, customs chokes may be established at such places as may be determined by the said Governor in Council; and every officer at every such choke shall have power to detain goods passing into or out of any such foreign territory, and to examine and ascertain the quantities and kinds thereof; and such goods shall not be allowed to pass across the frontier line out of or into the territory of the East India Company, until the owner or person in charge thereof shall produce and deliver a certificate, showing that the customs duty leviable thereupon has been paid in full.

The Governor in Council may appoint officers to collect duties, and to grant certificates of payments.

If goods be found not to correspond with certificate, the difference to be noted on the face of the certificate, and if the duty have not been duly paid, the goods to be detained until a further certificate be produced.

IX. And it is hereby enacted, that it shall be lawful for the said Governor in Council to appoint such officers as he may think fit, to receive money on account of customs duties, and grant certificates of the payment thereof; and that such a certificate being delivered to any chokee officer, shall entitle goods to cross the frontier into or out of the East India Company's territories, provided that the goods correspond in description with the specification thereof contained in such certificate, and that the certificate show the entire amount of duty leviable on those goods to have been duly paid; and if, upon examination, the goods brought to any chokee be found not to correspond with the specification entered in the certificate presented with the same, the difference shall be noted on the face of the certificate, and if the payment of duty certified therein shall not cover the entire amount of duty leviable on the goods, as ascertained at such examination, the goods shall be detained until a further certificate for the difference shall be produced.

The appointments of officers to receive customs duties on the frontier to be notified in the Official Gazette. Officers so appointed bound to grant certificates on receipt of the proper duty.

X. And it is hereby enacted, that the said Governor in Council shall give public notice, in the official Gazette of the Presidency of Fort St. George, of the appointment of every officer appointed to receive customs duties on goods crossing the land frontier of the said foreign territories; and the officers so appointed shall, on receipt of money tendered as customs duty, be bound to give to any merchant or other person applying for the same, a certificate of payment, and to enter therein the specification of goods, with the values and description thereof, according to the statement furnished by the person so applying, provided only, that the proper duty leviable thereupon, according to the descriptions and values stated, be covered by the payment made.

XI. And

XI. And it is hereby enacted, that no certificate shall be received at any chokee that shall bear date more than thirty days before the date when the goods arrive as the chokee; provided, however, that any person who has taken out a certificate from any authorized receiver of customs duties, shall at any time within the said period of thirty days, on satisfying such receiver that such certificate has not been used, and on delivering up the original, be entitled to receive a renewed certificate, with a fresh date, without further payment of duty.

Certificates not to bear date more than Thirty days before the arrival of goods.  
Proviso.

XII. And it is hereby enacted, that it shall be lawful for the said Governor in Council to prescribe, by public notice in the official Gazette of the Presidency of Fort St. George, by what routes goods shall be allowed to pass into or out of any such foreign territory, as is described in sections VI. and VII. of this Act; and after such notice shall be given, goods which may be brought to any chokee established on other routes or passes than those so prescribed, shall, if provided with a certificate, be sent back, and if not provided with a certificate shall be detained, and shall be liable to confiscation by the collector of customs, unless the person in charge thereof shall be able to satisfy the said collector that his carrying them by that route was from ignorance or accident.

The Governor in Council to notify in Official Gazette by what routes goods may cross the land frontier.

After which, goods brought by other routes to be liable to detention or confiscation.

XIII. And it is hereby enacted, that goods which may be passed, or which an attempt may be made to pass across any frontier guarded by chokees between sunset and sunrise, or in a clandestine manner, shall be seized and confiscated.

Goods crossing frontier clandestinely to be confiscated.

XIV. And it is hereby enacted, that any chokee officer who shall permit goods to pass across the frontier when not covered by a sufficient certificate, or who shall permit goods to pass by any prohibited route, shall be liable, on conviction before the collector of customs, to imprisonment for a term not exceeding six months, and to a fine not exceeding five hundred rupees, commutable, if not paid, to imprisonment for a further period of six months.

Penalty for officer permitting goods to cross the frontier without certificate, or by prohibited route.

XV. And it is hereby enacted, that if any chokee officer shall needlessly and vexatiously injure goods under the pretence of examination, or in the course of his examination, or shall wrongfully detain goods for which there shall be produced a sufficient certificate, such officer shall, on conviction before the collector of customs, or before any magistrate or joint magistrate, be liable to imprisonment for a term not exceeding six months, and to fine not exceeding five hundred rupees, commutable, if not paid, to imprisonment for a further period of six months.

Penalty for a chokee officer needlessly and vexatiously injuring goods, or wrongfully detaining them.

XVI. And it is hereby enacted, that all goods imported by sea into any port of the Presidency of Fort St. George from any foreign European settlement in India, or from any Native State the inland trade of which has been declared by the Governor in Council of the Presidency of Fort St. George, under section VII. of this Act to be subject to the duties levied on foreign bottoms, shall be liable to the same duties as are imposed by Schedule (A.) on imports on foreign bottoms.

Goods imported by sea from foreign European settlements or Native states declared foreign, to be liable to duties leviable on foreign bottoms.

XVII. And it is hereby enacted, that no goods whatsoever entered in either of the Schedules of this Act as liable to duty, shall be exempted from the payment of such duty, or of any part thereof, except under special order from the Governor in Council of the Presidency of Fort St. George: Provided always, that it shall and may be lawful for the collector of customs, or other officer in charge of a custom-house to pass free of duty any baggage in actual use, at his discretion; and if any person shall apply to have goods passed as such baggage, the collector, acting under the orders of the Government, shall determine whether they be baggage in actual use, or goods subject to duty under the provisions of this Act.

No dutiable goods entered in either of the Schedules of this Act to be exempted, unless under special order of Government.

Proviso.

XVIII. Provided always, that when goods are imported at any port of the Presidency of Fort St. George from any other port in that Presidency, under certificate that the export duty specified in Schedule (B.) has been duly paid thereon, or that there has been a re-export, and that the import duty specified in Schedule (A.) has been duly paid, the said goods shall be admitted to free entry.

Proviso under which goods may be imported duty-free from any other Madras port.

XIX. Provided also, that when duties of customs shall have been paid on any goods at any port in any part of the territories of the East India Company, not subject to the Presidency of Fort St. George, and such goods shall subsequently be imported at any port of the Presidency of Fort St. George, credit shall be given at such last-mentioned port, for the sum that may be proved by the production of due certificates to have been so paid.

Further proviso under which credit may be given at any Madras port for duties paid at any other British Indian port.



The Governor in Council to notify in the Official Gazette the valuation of articles liable to ad valorem duty.

XX. And it is hereby enacted, that it shall be lawful for the Governor in Council of the Presidency of Fort St. George, from time to time, by notice in the official Gazette of that Presidency, to fix a value for any article or number of articles liable to ad valorem duty, and the value so fixed for such articles shall, till altered by a similar notice, be taken to be the value of such articles for the purpose of levying duty on the same.

When no value has been fixed or declared, duty to be levied according to the market value.

XXI. And it is hereby enacted, that when goods liable to duty, for which a value has not been fixed by such a notice as is above directed, or for which a fixed duty has not been declared by the Schedules annexed to this Act, are brought to any custom-house in the Presidency of Fort St. George, for the purpose of being passed for importation or exportation, the duty leviable on such goods shall be levied ad valorem, that is to say, according to the market value of such goods at the place and time of importation or exportation, as the case may be.

The market value, how and by whom to be declared.

Application to be made in writing for the passing of goods through the Custom-house.

What the application is to contain.

XXII. And it is hereby enacted, that the market value for assessment of duties on ad valorem goods, shall be declared by the owner, consignee or exporter, or by the agent or factor for any of these respectively, upon the face of the application to be given in by him in writing, for the passing of the goods through the custom-house, and the value so declared shall include the packages or materials in which the goods are contained; and the application shall truly set forth the name of the ship in which the goods have been imported, or are to be exported, the name of the master of the said ship, the colours under which the said ship sails, the number, description, marks and contents of the packages, and the country in which the goods were produced.

Declaration of market value to be submitted to appraising officer.

The collector of customs empowered to purchase undervalued goods at the price so declared.

Payment for the goods, when and how to be made.

XXIII. And it is hereby enacted, that every such declaration, when duly signed, shall be submitted to the officer of customs appointed to appraise goods at the custom-house, and if it shall appear to him that the same is correct, he shall countersign it as admitted; but if any part or the whole of the goods shall seem to him to be undervalued in such declaration, he shall report the same to the collector of customs, who shall have power to take the goods or any part thereof, as purchased for the Government at the price so declared; and whenever the collector of customs shall so take goods for the Government, payment thereof shall be made to the consignee or importer, if the goods be imported goods, within fifteen days from the date of the declaration, the amount of import duty leviable thereon being first deducted, and if the goods be intended for exportation, the entire value as declared shall be paid, without deduction on account of customs duty.

Government to notify in the Official Gazette the ports for landing and shipping merchandize; goods landing at other ports to be confiscated.

XXIV. And it is hereby enacted, that it shall be lawful for the Governor in Council of the Presidency of Fort St. George, to declare, by public notice in the official Gazette of that Presidency what places within the same shall be ports for the landing and shipment of merchandize, and any goods that may be landed, or which an attempt may be made to land, at any other port than such as shall be so declared, shall be seized and confiscated.

Manifests of cargo to be sent in by masters of vessels on arrival.

XXV. And it is hereby enacted, that when any vessel shall arrive in any port of the Presidency of Fort St. George, the master shall deliver a true manifest of the cargo on board, made out according to the form annexed to this Act, and marked (C.) to the first person duly empowered to receive such manifest that may come on board, and if no such person shall have come on board before the anchor of the said vessel is dropped, then the manifest shall be forwarded to land on board of the first boat that leaves the vessel after dropping anchor, and if the port be up a river, or at a distance from the land first made, then it shall be lawful for the said Governor in Council, by an order published in the official Gazette of the Presidency, to fix a place in any such river or port beyond which place it shall not be lawful for any inward-bound vessel, except such country craft as are described in sections LIV. and LV. of this Act, to pass until the master shall have forwarded in such manner as may be ordered by the said Governor in Council, such a manifest as is required by this Act.

The Governor in Council may appoint places beyond which no inward-bound vessel may pass until the master have forwarded his manifest of cargo.

Excepting certain country craft.

Penalty for a master delivering a manifest not containing a full and true specification of cargo.

XXVI. And it is hereby enacted, that if the manifest so delivered by the master shall not contain a full and true specification of all the goods imported in the vessel, the said master shall be liable to a fine of one thousand rupees, and any goods or packages that may be found on board in excess of the manifest so delivered,

delivered, or differing in quality or kind, or in marks and numbers from the specification contained therein, shall be liable to be seized by any customs officer and confiscated, or to be charged with double or such increased duties as may be determined by the collector of customs under the orders of Government.

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XXVII. And it is hereby enacted, that if any inward-bound vessel shall remain outside or below the place that may be fixed by the said Governor in Council for the first delivery of manifests, the master shall deliver a manifest as hereinbefore prescribed to the first person duly empowered to receive such manifest that may come on board; and if any vessel entering a port for which there is a custom-house established, shall lie at anchor therein for the space of twenty-four hours, the master whereof shall refuse to deliver the said manifest in the manner above prescribed, he shall for such refusal be liable to fine not exceeding one thousand rupees, and no entry or port clearance shall be given for such vessel until the fine is paid.

Masters of inward-bound vessels remaining outside of the places fixed by the Governor in Council, required to deliver manifests.

Penalty for the master of a vessel refusing to deliver a manifest.

XXVIII. And it is hereby enacted, that no vessel shall be allowed to break bulk until a manifest as required by this Act, and another copy thereof to be presented at the time of applying for entry inwards, if so required by the collector of customs, shall have been received by the said collector, or until order shall have been given by the said collector for the discharge of the cargo; and that the said collector may further refuse to give such order if he shall see fit, until any port clearances, cockets, or other papers, known to be granted at the places from which the vessel is stated to have come, shall likewise be delivered to him.

No vessel to break bulk until the collector of customs have received ship's papers.

XXIX. And it is hereby enacted, that no goods shall be allowed to leave any vessel, or to be put on board thereof, until entry of the vessel shall have been duly made in the custom-house of the port, nor until order shall have been given for discharge of the cargo thereof, as above provided; and it shall be the duty of every customs officer to seize as contraband any goods which have been removed or put on board of any vessel in contravention of the above provision, or which any attempt shall have been made to remove from or to put on board of any vessel in contravention of the above provision; and after entry of the vessel at the custom-house in due form, such part of the cargo as may not be declared for re-exportation in the same vessel shall be sent to land, and export cargo shall be laden on board, according to the forms and rules that may be prescribed for the port by this Act, or by order of the Governor in Council of the Presidency of Fort St. George; and if an attempt be made to land or put on board goods or merchandize in contravention of the forms and rules so prescribed, the goods shall be liable to seizure and confiscation.

Goods moved from or put on board of any vessel without due entry in the custom-house, or permission for discharge of cargo, to be seized as contraband.

After entry in due form, cargo not declared for re-exportation may be landed, and export cargo laden.

Goods liable to seizure and confiscation if attempted to be landed or put on board in contravention of this Act.

XXX. And it is hereby enacted, that if goods entered in the manifest of a vessel shall not be found on board that vessel, or if the quantity found be short, and the deficiency be not duly accounted for, or if goods sent out of the vessel be not landed at the custom-house, or at such other place as the collector of customs shall have prescribed, the master shall be liable to a penalty not exceeding five hundred rupees for every missing or deficient package of unknown value, and for twice the amount of duty chargeable on the goods deficient and unaccounted for, if the duty can be ascertained: Provided, however, that nothing herein contained shall be construed to prevent the collector of customs from permitting, at his discretion, the master of any vessel to amend obvious errors, or to supply omissions from accident or inadvertence, by furnishing an amended or supplemental manifest.

Penalty on master if cargo do not correspond with his manifest, or if goods sent out of the vessel be not landed at the prescribed places.

Provision for the amendment of obvious errors in manifests of cargo.

XXXI. And it is hereby enacted, that there shall, in every port of the Presidency of Fort St. George, be one or more places appointed for the landing and shipment of goods, and goods shall not be landed at or shipped from any other place without the special order in writing of the collector of customs for the port; and if any goods be landed, or an attempt be made to land any goods at any other than the said authorized places; or if any goods be shipped, or an attempt be made to ship any goods from any others than the said authorized places without such order, they shall be seized and confiscated.

One or more places in every port to be appointed for the landing and shipment of goods. Goods landing at or shipping from any other place, without special permission, to be confiscated.

XXXII. And it is hereby enacted, that if the Governor in Council shall see fit, for the security of customs at any port, to maintain special establishments of boats for the landing and shipping of merchandize, or to license and register the cargo boats plying in any ports, then, after due notification thereof, it shall not be

The Governor in Council may license boats for landing and shipping merchandize; and after notification, goods found on any other boats to be liable to confiscation.

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Excepting under special permit from the collector of Customs.

After due notification by Government, the collector of customs empowered to station customs officers on board of any vessel.

Penalty for the master of a vessel refusing to receive and accommodate such officer.

Collector of customs may issue warrant to search any vessel.

Powers of an officer bearing such warrant.

Penalty for any master of a vessel resisting officer with warrant for search.

Penalty for a master removing or putting on board goods between sunset and sunrise, or when the custom-house is closed, without leave from collector.

Export cargo boats without permits not allowed to lie alongside vessels on which customs officers are stationed.

Goods on such boats, if not covered by a pass, to be liable to confiscation.

In the removal of goods from on board any vessel, a boat note to be sent with each separate despatch.

Goods liable to confiscation if found without a boat note, or out of the track between the vessel and the proper place of landing.

lawful for any person to convey goods to or from any vessel in such port, otherwise than in the boats so authorized and prescribed, except under special permit from the collector of customs at the port, and any goods that may be found on board of other boats than those so authorized for the port, shall be liable to be seized by an officer of customs, and shall be liable to confiscation.

**XXXIII.** And it is hereby enacted, that when the Governor in Council of the Presidency of Fort St. George shall see fit to maintain at any port an establishment of officers to be sent on board of vessels to watch their unloading and lading, then, after due notification shall have been given that such establishment is so maintained at any port, the collector of customs at that port shall have power at his discretion to send one or more officers of such establishment to remain on board of any vessel in such port, by night and by day, until the vessel shall leave the port, or it shall be otherwise ordered by the collector.

**XXXIV.** And it is hereby enacted, that any master of such vessel at such port who shall refuse to receive such officer with one servant on board, when such officer shall be so deputed as above provided, or shall not afford such officer and such servant suitable shelter and sleeping accommodation while on board; and likewise furnish them with a due allowance of fresh water if necessary, and with the means of cooking on board, shall be liable to a fine not exceeding the sum of one hundred rupees for each day during which such officer and servant shall not be received and provided with suitable shelter and accommodation.

**XXXV.** And it is hereby enacted, that whenever a collector of customs shall see cause to direct that any vessel shall be searched, he shall issue his warrant or written order for such search, addressed to any officer under his authority, and upon production of such order, the officer bearing it shall be competent to require any cabins, lockers or bulk-heads to be opened in his presence, and if they be not opened upon his requisition, to break the same open, and any goods that may be found concealed, and that shall not be duly accounted for to the satisfaction of the collector of customs, shall be liable to confiscation, and any master or person in charge of a vessel who shall resist such officer, or refuse to allow the vessel to be searched when so ordered by the collector of customs, shall be liable, upon conviction for every such offence, to a fine of one thousand rupees.

**XXXVI.** And it is hereby enacted, that every master of a vessel who shall remove from such vessel, or put on board thereof any goods, or cause or suffer any goods to be removed from thence, or put on board thereof between sunset and sunrise, or on any day when the custom-house is closed for business, without leave in writing obtained from the collector of customs, shall be punished with a fine not exceeding five hundred rupees.

**XXXVII.** And it is hereby enacted, that no cargo boat laden with goods intended for exportation by sea shall make fast to, or lie alongside of, any vessel on board of which there shall be a customs officer stationed, unless there shall be on board the boat, or have been received by the said customs officer, a custom-house permit or order for the shipment of the goods, and the goods on board of any boat that may so be alongside or be made fast to a vessel, if such goods be not covered by a custom-house pass accompanying them, or previously received by the customs officer on board the said vessel, shall be liable to confiscation.

**XXXVIII.** And it is hereby enacted, that when goods shall be sent from on board of any vessel having a customs officer on board for the purpose of being landed and passed for importation, there shall be sent with each boat load or other separate despatch a boat note, specifying the number of packages, and the marks and numbers or other description thereof, and such boat note shall be signed by an officer of the vessel, and likewise by the customs officer on board, and if any imported goods be found in a boat proceeding to land from such a vessel without a boat note, or if being accompanied by a boat note they be found out of the proper track between the ship and the proper place of landing, the boat containing such goods may be detained by any officer of customs duly authorized by the collector, and unless the cause of deviation be explained to the satisfaction of the collector of customs, the goods shall be liable to confiscation.

**XXXIX.** And

**XXXIX.** And it is hereby enacted, that when goods shall be brought to be passed through the custom-house either for importation or exportation by sea, if the packages in which the same may be contained shall be found not to correspond with the description of them given in the application for passing them through the custom-house, or if the contents thereof be found not to have been correctly described in regard to sort, quality or quantity, or if any goods not stated in the application be found concealed in or mixed up with the specified articles, all such packages, with the whole of the goods contained therein, shall be liable to confiscation.

Goods brought to be passed through the custom-house, if not corresponding with the description in the application, liable to confiscation.

**XL.** And it is hereby enacted, that if any person, after goods have been landed, and before they have been passed through the custom-house, removes or attempts to remove them with the intention of defrauding the revenue, the goods shall be liable to confiscation, unless it shall be proved to the satisfaction of the collector of customs that the removal was not sanctioned by the owner, or by any person having an interest in or power over the goods.

Goods liable to confiscation if removed with fraudulent intention after landing, and before passing through the custom-house.

**XLI.** And it is hereby enacted, that it shall be lawful for the collector of customs, whenever he shall see fit, to require that goods brought by sea and stowed in bulk shall be weighed or measured on board ship before being sent to land, and to levy duty according to the result of such weighing or measurement.

Collector of customs may require goods in bulk to be weighed or measured before landing, and levy duty accordingly.

**XLII.** And it is hereby enacted, that clause 2, section 11 of Regulation I. of 1805, of the Madras Code shall be repealed.

Rescinding c. 2, s. 11, of Reg. I. of 1805 of the Madras Code.

**XLIII.** And it is hereby enacted, that the price to be paid by the purchasers of salt to the Government of the Presidency of Fort St. George for salt that may be manufactured and sold under the orders of the Governor in Council for consumption within the territories subordinate to the Presidency of Fort St. George, shall, subsequent to the date specified in section 1 of this Act be one Company's rupee and eight annas for every maund of 3,200 tolas weight of salt.

Fixing the price to be paid for salt within the Presidency of Madras.

**XLIV.** And it is hereby enacted, that it shall be competent to the Governor-general of India in Council to grant a remission of the price specified in the last preceding section of this Act, in cases in which it may appear that the grant of such remission is expedient.

The Governor-general in Council empowered to grant a remission of this price.

**XLV.** And it is hereby enacted, that on application by the exporter of any salt that has paid the full price fixed to be paid for salt sold for home consumption under the provisions of section XLIII. of this Act, a certificate shall be granted by the collector of customs at the place of export, under authority of which certificate the quantity of salt specified therein shall be landed at any other port of the said Presidency of Fort St. George, and shall be passed from such port under the proper passes applicable to the free passage of salt into the interior, without the levy of any further duty of customs.

Salt having paid the home consumption price may be landed free at any other Madras port, under certificate.

**XLVI.** And it is hereby enacted, that when a customs officer shall be sent on board of any vessel to superintend the delivery of cargo, 20 days, exclusive of Sundays and holidays, shall be allowed for the discharge of the import cargo of vessels not exceeding 600 tons burthen, and 30 days, exclusive of Sundays and holidays, for the discharge of the import cargo of vessels exceeding that burthen, and the said periods shall be calculated from the day when the customs officer first went on board; and if the whole cargo be not discharged by the expiration of the above mentioned periods, the master shall be charged with the wages of such officer, and other expenses, for any further period that such officer may be detained on board; and if the owners, importers or consignees do not bring their goods to land within the periods above fixed, it shall be the duty of the master so to do.

Limited period allowed for discharge of import cargo of vessel on which customs officer may be stationed.

**XLVII.** And it is hereby enacted, that when there shall be no customs officer sent aboard vessels discharging cargo, it shall be lawful for the collector of customs to fix a period, not being less than 20 days, for the discharge thereof and clearance of the vessel inwards; and if any goods remain on board after the time so fixed, or after the time allowed in the last preceding section of this Act, the collector may order the same to be landed and warehoused for the security of the duties chargeable thereon, and of any freight and primage and other demands that may be due thereon, giving his receipt to the master for the same: Provided always, that in all cases it shall be lawful for the collector or other officer in charge of the

Limited period allowed for discharging cargo from any vessel without a customs officer on board.

Goods remaining on board after period allowed, to be landed and warehoused by order of collector.

Customs collector, with consent of master of vessel, may cause any packages to be deposited in the Government warehouses.

The collector empowered to sell goods if not cleared from custom-house within period specified.

Limited period allowed for putting export cargo on board of any vessel.

custom-house, with the consent of master of the vessel, to cause any packages to be brought on shore and to be deposited in the Government warehouses, for the security of the duties and charges thereon, although 20 days may not have expired from the entry of such vessel; and in case any goods brought to land from any vessel be not claimed and cleared from the custom-house within three months from the date of entry of the ship in which such goods were imported, it shall be competent to the collector to sell the same on account of the duties and other charges due thereon, and the balance remaining after deducting the said duties and charges shall be held in deposit, and paid to the owner on application.

XLVIII. And it is hereby enacted, that when a customs officer shall be sent on board of any vessel discharging cargo, a further period of 15 days, Sundays and holidays excluded, beyond the 20 days above specified, shall be allowed for putting on board export cargo, if the vessel shall not exceed 600 tons burthen, and 20 days if it exceed that burthen, when the lading and unlading thereof shall be continuous, and the master or commander shall in such case not be charged with the wages and expenses of the customs officer on board until after the expiration of such additional period; and if a vessel having discharged its import cargo shall be laid up, the customs officer on board shall certify that no goods remain on board except necessary stores and articles for use; and when a vessel so laid up shall be entered at the custom-house for receipt of export cargo, a customs officer shall be sent on board, and if the said last-mentioned officer shall certify that no goods are on board except as above excepted, 20 days, exclusive of Sundays and holidays, as above, shall be allowed from the date of such certificate for the lading outwards of a vessel not exceeding 600 tons, and 30 days for vessels exceeding that burthen, after which periods respectively the master shall be charged with the wages and expenses of the customs officer on board to the date of the vessel's sailing from the port.

Penalty for putting goods on board a vessel after customs officer's removal therefrom, and before a customs officer have again been placed thereon.

XLIX. And it is hereby enacted, that when upon application from the master of any vessel the customs officer shall be removed from on board thereof, under the provisions to that effect contained in the last preceding section of this Act, if the master of such vessel shall, before a customs officer have again been placed in such vessel put on board of such vessel, or cause or suffer to be put on board of such vessel, any goods whatever, such master shall be punished with a fine not exceeding one thousand rupees, and the goods shall be liable to be relanded for examination at the expense of the shippers, upon requisition to that effect from the collector of customs.

A port clearance to be granted to the master of every vessel on certificate of all public demands against him having been satisfied.

L. And it is hereby enacted, that a port clearance shall be granted by the collector of customs or other authorized officer, to the master or commander of every vessel clearing out from the ports of the Presidency of Fort St. George, provided such master or commander shall have complied with the terms prescribed by this Act, and with the rules of the port concerned, and shall produce a certificate from the proper officer or officers of all port charges and public demands against him, of whatever nature, having been duly paid and discharged.

Rules for levying duty on goods passed through custom-house for shipment after grant of port clearance.

LI. And it is hereby enacted, that upon any goods liable to duty that may be passed through the custom-house for shipment, the application for which shall be presented after port clearance shall have been taken out, double of the prescribed duty shall in all cases be levied, and if the goods be free, or have already paid import duty, or have been imported free under certificate, five per cent upon the market value shall be levied thereon, or if the same be imported goods entitled to drawback, the drawback shall be forfeited, but no separate duty shall be levied on drawback goods.

Cargo of vessels putting back from stress of weather or damage, and compelled to reland cargo, to be taken charge of by customs officers, and lodged in such place as the collector may direct.

LII. And it is hereby enacted, that when a vessel having cleared out from any port shall put back from stress of weather, or it shall for any damage or from other cause be necessary that the cargo of a vessel that has cleared out shall be unshipped or relanded, a customs officer shall be sent to watch the vessel and take charge of the cargo during such relanding or removal from on board, and the goods on board such vessel shall not be allowed to be transhipped or re-exported free of duty, by reason of the previous settlement of duty at the time of first export, unless the goods shall be lodged in such place as shall be allowed by the collector

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collector of customs, and shall remain while on land or while on board of any other vessel, under special charge of the officers of customs until the time of re-export, and all charges attending such custody shall be borne by the exporter; provided, however, that in all cases of return to port after port clearance on account of damage or for stress of weather, it shall be lawful for the owner, or for the master to enter the vessel and land the cargo, under the rules for the importation of goods, and the export duty shall in that case be refunded, and the amount paid in drawback be reclaimed, and if goods on account of which drawback has been paid be not found on board the vessel, the master shall be liable to a fine not exceeding the entire value thereof, unless he account for them to the satisfaction of the collector of customs.

Proviso under which the cargo may be landed as imported goods, and the export duty refunded.

Penalty for a master putting back into port without goods on which drawback has been allowed.

LIII. And it is hereby enacted, that when goods shall be reloaded before the lading of any vessel is complete, and before port clearance has been granted, the duty levied upon such goods shall be returned to the exporter, but no refund shall be made of duty paid on the export of any goods after port clearance shall have been granted for the vessel on which the goods were exported, unless the vessel shall have put back for stress of weather or for damage, and the goods shall have been reloaded under the rule contained in the last preceding section of this Act.

Duty on goods reloaded before the lading is complete to be refunded, but not after grant of port clearance.

Unless the vessel have put back for stress of weather or damage.

LIV. And it is hereby enacted, that it shall be lawful for the said Governor in Council to establish rules for the anchoring of the coasting and country craft of the British territories, for the delivery of manifests of the cargo of such vessels, and for the landing of goods therefrom, and shipping of goods thereon, and that whoever being in charge of any such craft, shall knowingly contravene any such rule, shall be liable to a fine not exceeding one hundred rupees for each offence.

Penalty on coasting and country craft for contravening such rules as Governor in Council may lay down for their regulation.

LV. And it is hereby enacted, that pattamars, dhonies, and other small craft from the Maldiva or Laccadive Islands, or from the native ports of Kattywar and Cutch, and of the Travancore and Cochin States, shall be treated in the ports of the Presidency of Fort St. George, like the coasting craft of the British territory, provided that they conform to such special regulations as to the place of anchoring and made of landing and shipping goods, as may be made by the Governor in Council for such vessels in the several ports of the Presidency of Fort St. George.

Specification of native craft to be treated like coasting craft of the British territories.

LVI. And it is hereby enacted, that no drawback shall be allowed on goods shipped on such native craft, as are described in the last preceding section of this Act.

No drawback allowed on goods shipped on such native craft.

LVII. And it is hereby enacted, that goods exported in the same vessels, if manifested for re-export, shall not be subject to import or export duty, and if any goods brought to any port in any vessel, be transhipped in such port, they shall in all cases be subject to the same duty as if they had been landed and passed through the custom-house for re-exportation in the vessel into which they may be transhipped.

Goods re-exported in the same vessel not subject to duty; duty to be levied on transhipped goods as if they had been landed and re-exported.

LVIII. And it is hereby enacted, that no transhipment shall be made of any goods except under special order in writing from the collector of customs of the port, and that goods transhipped or attempted to be transhipped without such order, shall be liable to confiscation.

Goods to be liable to confiscation if transhipped without special license from collector.

LIX. And it is hereby enacted, that an officer of customs shall in all cases be deputed to superintend the removal of goods from vessel to vessel.

Customs officer to superintend transhipment.

LX. And it is hereby enacted, that in all cases in which under this Act goods are liable to confiscation, the collector of customs of the place where those goods may be, shall be competent to adjudge such confiscation.

The collector competent to adjudge confiscations.

LXI. And it is hereby enacted, that if any person in charge of a vessel shall have become liable to any fine on account of any act or omission relating to customs, the collector of customs shall be competent, subject to the orders of the Governor in Council of the Presidency of Fort St. George, to refuse port clearance to such vessel until the fine shall be discharged.

The collector may exact payment of fines before granting port clearance.



Empowering collectors of customs to decide upon cases of seizure and to adjudge damages.

To mitigate penalty of confiscation to the extent of the levy of double duty.

And to distribute part proceeds of sale of confiscated goods in rewards among seizing officers.

All officers of customs amenable to civil courts.

Proviso.

Penalty for obstructing customs officers in the exercise of their powers.

Penalty for customs officer receiving consideration for doing or forbearing any official act.

Penalty for a customs officer concerned in defrauding the customs revenue.

Penalty for exacting customs or duties without authority as a customs officer.

The Governor in Council may transfer the powers of collector of customs to any other officer, and may make rules and appoint officers to carry this Act into effect, and fix rates of wharfage and rent.

**LXII.** And it is hereby enacted, that it shall be lawful for any collector of customs, or other officer who may be authorized to adjudicate customs cases, if he shall decide that a seizure of goods made under the authority of this Act was vexatious and unnecessary, to adjudge damages to be paid to the proprietor by the customs officer who made such vexatious seizure, besides ordering the immediate release of the goods; and if the proprietor accept such damages, no action shall thereafter lie against the officer of customs in any court of justice on account of such seizure; and if such adjudicating officer shall decide that the seizure was warranted, but shall deem that the penalty of confiscation is unduly severe, it shall be lawful for him to mitigate the same to the extent of the levy of double duty, and if the said officer shall adjudge confiscation, it shall further be lawful for him to order that from the proceeds of the sale of the goods, a proportion, not exceeding one-half, shall be distributed in rewards amongst such officers as he shall deem entitled thereto, and in such proportion as he may direct to each respectively.

**LXIII.** And it is hereby enacted, that all officers of customs shall, as heretofore, be amenable to the civil courts of the Presidency of Fort St. George by action for damages, on account of any executive acts done in their official capacity, at the suit of the parties injured by such acts; provided, however, that no suit shall lie against a collector of customs or other officer for any judicial award in a matter of customs passed under the preceding section of this Act.

**LXIV.** And it is hereby enacted, that whoever intentionally obstructs any officer in the exercise of any powers given by this Act to such officer, shall be punished with imprisonment for a term not exceeding six months, or fine not exceeding one thousand rupees, or both.

**LXV.** And it is hereby enacted, that whoever, being an officer appointed under the authority of this Act, shall accept, or obtain or attempt to obtain from any person any property as a consideration for doing or forbearing to do any official act, shall be punished with imprisonment for a term not exceeding two years, or fine, or both.

**LXVI.** And it is hereby enacted, that whoever, being an officer appointed under the authority of this Act, practices or attempts to practise any fraud for the purpose of injuring the customs revenue, or abets or connives at any such fraud, or at any attempt to practise any such fraud, shall be punished with imprisonment for a term not exceeding two years, or fine, or both.

**LXVII.** And it is hereby enacted, that whoever, not being an officer appointed under this Act, or authorized by any Regulation to collect customs or duties, shall exact customs or duties of any denomination on any pretence whatsoever, whether as principal or agent, shall be punished with imprisonment for a term not exceeding two years, or fine, or both, and furthermore shall be liable for such damages as may be obtained against him, on the suit of the party injured, by action in any of the civil courts of the Presidency of Fort St. George.

**LXVIII.** And it is hereby enacted, that it shall be lawful for the Governor in Council of Fort St. George by an Order in Council, to transfer any of the powers given to a collector of customs by this Act to any other functionary, and to make any rules consistent with law for the carrying of this Act into effect, and to establish such wharves, and appoint such officers as he shall think fit, and to fix rates of wharfage and of rent to be paid for goods deposited or suffered to lie in the godowns of the custom-house.

## Schedule (A.)

II.  
Madras.RATES of DUTY to be Charged on Goods IMPORTED by SEA into any Port of the Presidency of  
Fort St. George.

No.	ENUMERATION OF GOODS.	When Imported on British Bottoms.	When Imported on Foreign Bottoms.
1.	Bullion and coin - - - - -	free - - -	free.
2.	Precious stones and pearls - - - - -	- ditto - - -	- ditto.
3.	Grain and pulse other than rice and paddy - - - - -	- ditto - - -	- ditto.
4.	Rice and paddy - - - - -	- - 2 annas per bag not exceeding 2 maunds of 80 tolas to the seer, or if im- ported otherwise than in bags, 1 anna per maund.	- - 4 annas per bag not exceeding 2 maunds of 80 tolas to the seer, or if im- ported otherwise than in bags, 2 annas per maund.
5.	Horses and other living animals - - - - -	free - - -	free.
6.	Ice - - - - -	- ditto - - -	- ditto.
7.	Coal, coke, bricks, chalk, stones, (marble and wrought stones excepted).	- ditto - - -	- ditto.
8.	Books printed in the United Kingdom, or in any British possession.	- ditto - - -	3 per cent.
9.	Foreign books - - - - -	3 per cent. - - -	6 per cent.
10.	Marine stores, the produce or manufacture of the United Kingdom, or of any British possession.	3 per cent. - - -	6 per cent.
11.	Ditto, ditto, the produce or manufacture of any other place or country.	6 per cent. - - -	12 per cent.
12.	Metals, wrought or unwrought, the produce or manufacture of the United Kingdom, or any British possession.	3 per cent. - - -	6 per cent.
13.	Metals, ditto, ditto, excepting tin, the produce or manufacture of any other place.	6 per cent. - - -	12 per cent.
14.	Tin, the produce of any other place than the United Kingdom, or any British possession.	10 per cent. - - -	20 per cent.
15.	Woollens, the produce or manufacture of the United Kingdom, or any British possession.	2 per cent. - - -	4 per cent.
16.	Ditto, the produce of any other place or country	4 per cent. - - -	8 per cent.
17.	Cotton wool, not covered by certificate of the payment of export duty at any other port of Fort St. George.	- - 9 as. per maund of 80 tolas to the seer.	- - 1 r. 2 as. per maund of 80 tolas to the seer.
18.	Cotton and silk piece goods, cotton twist and yarn, the produce of the United Kingdom, or of any British possession.	3½ per cent. - - -	7 per cent.
19.	Ditto, the produce of any other place - - -	7 per cent. - - -	14 per cent.
20.	Opium - - - - -	- - 24 rs. per seer of 80 tolas.	- - 24 rs. per seer of 80 tolas.
21.	Salt - - - - -	- - 3 rs. per maund of 80 tolas to the seer.	- - 3 rs. per maund of 80 tolas to the seer.
22.	Alum - - - - -	10 per cent. - - -	20 per cent.
23.	Beetel nut, raw - - - - -	5 per cent. - - -	10 per cent.
24.	Beetel nut, boiled - - - - -	10 per cent. - - -	20 per cent.
25.	Camphor - - - - -	10 per cent. - - -	20 per cent.
26.	Cassia - - - - -	10 per cent. - - -	20 per cent.
27.	Cloves - - - - -	10 per cent. - - -	20 per cent.
28.	Coffee - - - - -	7½ per cent. - - -	15 per cent.
29.	Coral - - - - -	10 per cent. - - -	20 per cent.
30.	Nutmegs and mace - - - - -	10 per cent. - - -	20 per cent.
31.	Pepper - - - - -	10 per cent. - - -	20 per cent.
32.	Rattans - - - - -	7½ per cent. - - -	15 per cent.
33.	Tea - - - - -	10 per cent. - - -	20 per cent.
34.	Vermilion - - - - -	10 per cent. - - -	20 per cent.
35.	Wines and liqueurs - - - - -	10 per cent. - - -	20 per cent.
36.	Spirits - - - - -	9 as. per impl. gall.	1 r. per impl. gall.
	And the duty on spirits shall be rateably increased, as the strength exceeds London proof; and when imported in bottles, 5 quart bottles shall be deemed equal to the imperial gallon.		
37.	Tobacco - - - - -	10 per cent. - - -	20 per cent.
	All articles not included in the above enumeration	3½ per cent. - - -	7 per cent.



II.  
Madras.

And if the collector of customs shall see reason to doubt whether the goods liable to a different rate of duty according to the place of their production, come from the country from which they are declared to come by the importer, it shall be lawful for the collector of customs to call on the importer to furnish evidence as to the place of manufacture or production, and if such evidence shall not satisfy the said collector of the truth of the declaration, the goods shall be charged with the highest rate of duty, subject always to an appeal to the Governor in Council of Fort St. George.

And upon the re-export by sea of goods imported, excepting opium and salt, and all goods of the growth, production or manufacture of the Continent of India, provided the re-export be made within two years of the date of import as per Custom-house Register, and the goods be identified to the satisfaction of the collector of customs, there shall be retained one-eighth of the amount of duty levied, and the remainder shall be repaid as drawback.

But no exporter of imported goods shall be entitled to drawback, unless the drawback be claimed at the time of re-export, nor shall any payment be made of drawback, unless the amount claimed be demanded within one year from the date of entry of the goods for re-export in the Custom-house Register.

### Schedule (B.)

RATES of DUTY to be charged on Goods EXPORTED by SEA from any Port or Place in the Presidency of Fort St. George.

No.	ENUMERATION OF GOODS.	Exported on British Bottoms.	Exported on Foreign Bottoms.
1.	Bullion and coin - - - - -	free - - -	free.
2.	Precious stones and pearls - - - - -	- ditto - - -	- ditto.
3.	Books, maps and drawings, printed in India - -	- ditto - - -	- ditto.
4.	Horses and living animals - - - - -	- ditto - - -	- ditto.
5.	Cotton wool, exported to Europe, the United States of America, or any British Possession in America.	- ditto - - -	- - 9 as. per maund of 80 tolas to the seer.
6.	Ditto ditto, exported to places other than above -	- - 9 as. per maund. of 80 tolas to the seer.	- - 1 r. 2 as. per maund of 80 tolas to the seer.
7.	Sugar and rum, exported to the United Kingdom, or to any British possession, not being a British possession or settlement on the Continent of India, including Bombay.	free - - -	3 per cent.
8.	Ditto, ditto, exported to any other place including any British possession or settlement on the Continent of India, including Bombay.	3 per cent. - - -	6 per cent.
9.	Grain and pulse of all sorts, other than rice and paddy.	- - 1 anna per bag not exceeding 2 maunds of 80 tolas to the seer, or if exported otherwise than in bags $\frac{1}{2}$ an anna per maund.	- - 2 as. per bag not exceeding 2 maunds of 80 tolas to the seer, or if exported otherwise than in bags, 1 anna per maund.
10.	Rice and paddy - - - - -	- - 2 annas per bag as above, or 1 anna per maund.	- - 4 annas per bag as above, or 2 annas per maund.
11.	Indigo - - - - -	- - 3 rs. per maund of 80 tolas to the seer.	- - 6 rs. per maund of 80 tolas to the seer.
12.	Salt, having paid the price fixed to be paid on salt declared for exportation to ports or places not being subordinate to the Presidency of Fort St. George.	free - - -	free.
13.	Tobacco - - - - -	10 per cent. - - -	20 per cent.
14.	Opium, not covered by a pass - - - - -	prohibited - - -	prohibited.
	All articles not included in the above enumerations.	3 per cent. - - -	6 per cent.

And upon the re-export to Europe, the United States of America, or to any British possession in America, from Madras or from any other Port of the Presidency of Fort St. George, of cotton that has been imported under certificate of the payment of the duty specified in this Schedule, provided that the re-export be made in British bottoms, within two years from the date of such certificate, and the amount be claimed within one year from the date of re-export as per Custom-house Registers, the whole amount of export duty levied at the first place of export, shall be refunded.

## Schedule (C.)

II.  
Madras.MANIFEST of Goods imported per  
underCommander, from  
colour, viz.

Mark.	Numbers.	Packages.	Quantity.	Weight.	Gallons.	Yards.	Description of Goods.	Invoice Value.	Tariff Value.
		Cases.	Pieces.					£. s. d.	£. s. d.
A.	1 @ 5	5	250	0	0	3,000	Cambrics - - - Long cloths, bleached - Long cloths, unbleached - Madapollams, bleached - Ditto, unbleached - - Plain muslins - - -		

N. B.—Articles generally to be specified, excepting such as ironmongery, hardware, glassware, earthenware, cutlery, perfumery, confectionary, stationery and such like. All articles from Great Britain to be entered according to the English weight, not native.

From China in like manner, in China weights.

In imports and exports of bullion or coin, to specify the sort of which they consist.

## EXTRACT "Fort St. George Gazette," 16th August 1844.

Fort St. George, 16 August 1844.

It is hereby notified for general information, that, under instructions received from the Honourable the Court of Directors, the sale price of salt manufactured within this Presidency is reduced to one company's rupee per Indian maund.

By order of the most noble the Governor in Council,

(signed) *G. D. Drury,*  
Chief Secretary.

## MEMORANDUM.

UNDER Regulation I. of 1812, a general inland duty at the rate of five per cent. ad valorem, was made leviable on every article of sale or consumption. In the year 1837, the sanction of the Government of India was obtained to the limitation of the sayer duty to 35 of the principal articles of commerce, of which the following is a list:—

- |                               |                                     |
|-------------------------------|-------------------------------------|
| 1. Cloth.                     | 19. Chayroot.                       |
| 2. Tobacco.                   | 20. Indigo.                         |
| 3. Beetel leaves.             | 21. Saltpetre.                      |
| 4. Ganjah.                    | 22. Grain (on exportation).         |
| 5. Bang.                      | 23. Gunny, including cumblies.      |
| 6. Goodank.                   | 24. Timber.                         |
| 7. Opium.                     | 25. Cotton thread (on exportation). |
| 8. Oil, &c.                   | 26. Cotton (on exportation).        |
| 9. Ghee.                      | 27. Silk.                           |
| 10. Beetel nut.               | 28. Pepper.                         |
| 11. Tamarinds.                | 29. Cardamoms.                      |
| 12. Castor oil seeds.         | 30. Cummin seed.                    |
| 13. Gingely oil seeds.        | 31. Sandal wood.                    |
| 14. Sugar.                    | 32. Red wood.                       |
| 15. Jaggery.                  | 33. Dying flowers.                  |
| 16. Cocoa nuts.               | 34. Hides.                          |
| 17. Copra, or dry cocoa nuts. | 35. Goa salt.                       |
| 18. Iron.                     |                                     |

The effect of this change was to relieve a vast number of articles from the payment of duty, and to reduce the sayer revenue by about three lacs and a half of rupees. By Act VI. of 1844, the sayer duty is altogether abolished, as well as the town duty of three per cent. additional, leviable on the same articles brought within

II.  
Madras.

the limits of the town of Madras. By the same Act are also abolished the special sea export duties in Malabar and Canara, and the hawlut, or land frontier duty in the latter district, which were levied at the under-mentioned rates, viz.—

	Special Sea Customs.		Hawlut Duties.
	Malabar.	Canara.	Canara.
Beetel nuts - - -	12½ per cent. - -	35 per cent. - -	30 and 25 per cent.
Pepper - - -	15 " - -	15 " - -	10 - - "
Cardamoms - - -	13 " - -	20 " - -	15 - - "
Cinnamon - - -	10 " - -	—	—
Sandal wood - - -	10 " - -	—	—

East India House, }  
10 April 1845. }

(signed) T.L. Peacock,  
Examiner of India Correspondence.

III.  
Bombay.

## III.—Bombay.

(No. 241.)

EXTRACT from the Proceedings of the Honourable the President of the Council of India in Council, in the Financial Department, under date the 23d February 1844.

READ again the letter from the officiating Secretary to the Government of India with the Right honourable the Governor-general, No. 40, dated 7th instant, respecting the proposed Act for the abolition of the Madras transit duties, and the increase of the duty on salt in the Presidency of Madras, and conveying the remarks of the Governor-general upon the expediency of raising the excise duty now levied upon salt at Bombay, simultaneously with the measure for increasing the price of that article in the Madras territories.

The President in Council observes, that it was the intention of the Government of India, on abolishing the inland transit and town duties at Madras, to have abandoned the remaining duties of a similar character, still capable of relinquishment at Bombay, and to have taken the opportunity to increase the impost on salt, in a reasonable degree, simultaneously at both Presidencies, in compensation for the amount of revenue to be sacrificed by a measure of relief called for on every principle of justice and expediency, but nevertheless attended with heavy loss to the State.

The average price of salt at Madras, as sold by the Government for home consumption, is 15 annas the maund of 3,200 tola weight. The Government excise duty at Bombay is eight annas for the same maund; consequently, to equalize prices, and prevent the salt of one Presidency underselling that of the other, if the Government sale price of salt at Madras be raised to one rupee and eight annas, the duty at Bombay will require to be fixed at about one rupee per maund, still leaving the price in either case less than one-half the duty levied on Bengal.

The measure of the abolition of the duties at Madras is ready for instant enactment, that for Bombay is not yet complete, and is of infinitely less importance than the intended relief for Madras, where the system still acts with oppressive weight.

The President in Council has placed the Madras Act before the Legislative Council in concurrence with the views of the Right honourable the Governor-general, and in order to prevent further delay in its being passed into a law, he resolves that the increase of the salt tax, which must necessarily be simultaneous at both Presidencies, shall be carried into effect at once, leaving the question of the Bombay town duties open to further consideration after its details shall have been finally inquired into.

He

He accordingly directs that the following draft of an Act for raising the duty now levied upon salt in the Presidency of Bombay, be sent to the Legislative Department, for consideration in that department, preparatory to its submission to the Governor-general, and being passed into a law.

III.  
Bombay.

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ACT No. XVI. OF 1844.

Passed by the Governor General of India in Council, on the 27th July 1844.

AN ACT for increasing the Excise and Import Duties heretofore payable to the Government on Salt manufactured within or imported into the Territories subject to the Government of the Presidency of Bombay.

WHEREAS by Act VI. of 1844 all inland, transit and town duties levied on behalf of the Government of the East India Company, within the limits of the territories subordinate to the Presidency of Fort St. George, were abolished, and the impost on salt manufactured and sold within the said territories was raised to a rate more in accordance with the tax on the same article borne by other divisions of the British possessions: and whereas, although inquiries which have been instituted as to the origin and extent of certain town duties and local cesses within the Presidency of Bombay, with a view to their abolition, have not yet been completed, it is nevertheless expedient, in order to equalize the average prices of salt within the Presidencies of Fort St. George and Bombay, to increase as well the customs duty on imported salt, as the excise duty heretofore and at present payable on salt that may be delivered from any salt work within the territories subject to the government of the Presidency of Bombay:

I. It is hereby enacted, that from the first day of September 1844, sect. 1, of Act XXVII. of 1837 shall be repealed.

II. And it is hereby enacted, that from the first day of September 1844, there shall be paid to the Government on every maund of 3,200 tolas weight of salt that may be delivered from any salt work within the territories subject to the Government of the Presidency of Bombay, a duty of one Company's rupee.

III. And it is hereby enacted, that sect. 43. Act, I. of 1838, shall be repealed.

IV. And it is hereby enacted, that on application by the exporter from any port of the Presidency of Bombay of any salt that has paid the excise duty fixed by sect. 2 of this Act, a certificate shall be granted by the collector of customs at the place of export, under authority of which certificate the quantity of salt specified therein shall be landed at any other port of the said Presidency of Bombay, and shall be passed from such port into the interior under cover of the passes applicable to the free passage of salt, without the levy of any further duty either of excise or customs.

V. And it is hereby enacted, that so much of Schedule (A.) appended to Act I. of 1838 as provides, that on salt imported by sea into any port of the Presidency of Bombay, and not covered by a pass, there shall be levied a duty of eight annas per maund of 80 tolas per seer; and so much of Schedule (B.) appended to Act I. of 1838 as provides that salt having paid the excise duty of eight annas a maund shall be permitted to be exported free of duty from any port or place in the Presidency of Bombay, shall be repealed.

VI. And it is hereby enacted, that on salt imported by sea into any port of the Presidency of Bombay, and not covered by a pass, there shall be levied a duty of one Company's rupee per maund of 3,200 tolas weight; and that salt having paid the excise duty of one Company's rupee per maund shall be permitted to be exported free from further duty from any port of the Presidency of Bombay.

III.  
Bombay.

EXTRACT from the Proceedings of Government in the Territorial Department,  
Revenue, dated 18th September 1844.

## NOTIFICATION.

THE Government of India having directed, with reference to a despatch from the Honourable the Court of Directors, dated the 3d of July last, that the excise and import duty payable under Act XVI. of 1844, on salt manufactured within or imported into the territories subject to the government of the Presidency of Bombay, shall be reduced from one rupee to twelve annas per maund of 3,200 tolas, the honourable the Governor in Council is pleased to notify that the said excise and import duty is hereby reduced accordingly.

(signed) *E. H. Townsend,*  
Secretary to Government.

Bombay Castle, }  
14 September 1844. }

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 ACT No. XIX. OF 1844.

Passed by the Governor General of India in Council, on the 14th September 1844.

AN ACT for abolishing Town Duties and Mookauts, and all Taxes upon Trades and Professions within the Presidency of Bombay.

It is hereby enacted, that from the first day of October 1844, all town duties, kusub veeras, mohturfas, ballotee taxes, and cesses of every kind on trades or professions, under whatsoever name levied within the Presidency of Bombay, and not forming a part of the land revenue, shall be abolished.

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 MEMORANDUM.

THE duties and taxes abolished under the general words used in Act XIX. of 1844 were levied, not by any specific law, but according to local usage, and as they varied both in their rates and designations throughout the different portions of the Bombay Presidency, no precise enumeration of them can be furnished.

(signed) *T. L. Peacock,*  
Examiner of India Correspondence.

East India House, }  
10 April 1845. }

## IV.—Financial Results.

ESTIMATED RESULT to the Revenue of the several Presidencies of *India* respectively, from the Alterations in the Duties under Acts XIV. of 1843, and VI., XVI. and XIX. of 1844.

BENGAL, North West Provinces :		Rs.
Estimated increase of revenue under the operation of Act XIV. of 1843	-	7,50,000
MADRAS :		
Net sayer duty in the Provinces	- - - - - Rs. 27,24,000	
Deduct frontier duty, still leviable	- - - - - 6,21,000	
		21,03,000
Town or consumption duty at Madras	- - - - -	2,18,000
Consumption duty on betel and tobacco, in Madras and the Provinces	- - - - -	7,41,000
Hawlut and special duties in Malabar and Canara	- - - - -	3,04,000
Stamp rowannahs	- - - - -	10,000
Aggregate Amount of Revenue relinquished	- - - - -	33,76,000
Estimated gain by alteration in sea custom tariff	- - - - - Rs. 1,00,000	
Estimated increase of revenue from raising the price of salt from Rs. 105 to Rs. 120 per garce, under the notification of the 16th August 1844	- - - - - 5,40,000	
		6,40,000
NET DECREASE of Revenue	- - - - - Rs.	27,36,000
BOMBAY :		
Town duties	- - - - -	5,50,000
Miscellaneous taxes	- - - - -	5,50,000
Estimated amount of revenue relinquished under Act XIX. of 1844	- - - - -	11,00,000
Estimated increase of revenue by raising the duty on salt from 8 to 12 annas per maund, under the notification of the 16th September 1844	- - - - -	9,00,000
NET DEFICIT	- - - - - Rs.	2,00,000
BENGAL.—Estimated increase of revenue under Act XIV. of 1843	- - - - -	7,50,000
MADRAS.—Estimated decrease of revenue under Act VI. of 1844	- - - - - Rs. 27,36,000	
BOMBAY.—Estimated decrease of revenue under Acts XVI. and XIX. of 1844	- - - - - 2,00,000	
		29,36,000
NET DEFICIT in the Revenue of the Three Presidencies	- - - - - Rs.	21,86,000

East India House, }  
10 April 1845. }

(signed) T. L. Peacock,  
Examiner of India Correspondence.

V.  
Engagements  
respecting  
Transit Duties.

V.—Engagements with the Raja of Biccaneer and the Nawab of Bahawulpore, respecting Transit Duties.

ENGAGEMENT of the NAWAB of BAHAWULPORE with respect to the levy of Duties.

EXTRACT Letter from the Secretary to the Lieutenant-governor of the North-Western Provinces, to the Secretary to the Government of India, dated Simla, 11th October 1843.

“I AM directed by the Lieutenant-governor to transmit, for submission to the Governor-general in Council, the accompanying sealed document in original, with a translation received, through Captain Thomas, from H. H. the Nawab of Bhawulpore.”

Regarding the levy of duties on merchandize in transit through the Bhawulpore State (excepting the merchants and mercantile firms, the proper subjects of the Bhawulpore State), the following articles have been agreed to between the British and the Bhawulpore governments.

1st. On boats freighted with merchandize going up or down the river through the Bhawulpore country, the duties shall become one-half of the present fixed rates.

2d. On merchandize passing in any direction by land, no other duties shall be levied than the following; viz.

	A.	R.	P.
On a hackery laden with merchandize - - - - -	2	-	-
On a camel - - - - -	1	-	-
On a mule, pony, bullock or ass - - - - -	-	8	-

3d. Any merchant having with him a passport or “rowannah,” according to the form annexed to this agreement, shall pass safe, unmolested and without search by the local officers on the road.

4th. If any merchant buy or sell the merchandize at any place or town on the road, he will have to pay there the usual local duties.

5th. As there exist no pukka wells and caravansaries for the use of travellers on the road from Bhawulpore to Sirsa, the Bhawulpore government will, throughout its jurisdiction, at every stage, prepare pukka wells and caravansaries for the comfort of travellers, as well as a road along that route, and keep it in order by taking constant care to keep it in repair.

6th. This agreement has been drawn up in accordance with the friendship subsisting between the two Governments, and in order that merchants may satisfactorily and in full confidence engage in the trade.

Dated 15th Shaban 1259 Higra, corresponding with 11 September 1843, A. D.

Seal of the  
Nawab.

ENGAGEMENT of the RAJAH of BICKANEER, with respect to the Levy of Duties.

HINDOO MULL, the Minister of the Rajah of Bickaneer, to Mr. Hamilton, the Governor-General's Agent, 9 January 1844.

It was in contemplation to regulate the duties levied in the Bickaneer territory on merchandize in transit towards the west, Bombay and Bhawalpore, and towards the east, Delhi and Sirsa, to construct serraees, wells, tanks and the road; and to ensure protection to the goods of merchants. Accordingly, the  
Durbar

Durbar of Bickaneer has, in conformity to the suggestions of, and with a view to facilitate the mercantile community, fixed the following rates of duties; viz,

V.  
Engagements  
respecting  
Transit Duties.

	R.	A.	P.
On a hackery, laden with mercantile goods - - -	1	-	-
On a camel, ditto - - - - -	-	8	-
On a buffalo, mule, pony, bullock, &c. - - -	-	4	-
On a horse, camel, and cattle, for sale - - -	2 per cent. on value.		

Any unladen camel, hackery, bullock or pony, &c., going for goods, or returning empty, will pass free and unmolested. But any merchandize bought or sold in the Bickaneer territory on the line of road, or any merchant quitting the Bhutneer or the Anoopghur chowkie, and passing by another direction, shall be subject to pay the usual local duties. The goods of merchants shall be protected as usual; and surraees, wells and tanks shall be constructed according to the plan suggested by Captain Robinson; a regular road shall also be made and kept constantly repaired. The duties above fixed shall be levied at Bhutnee on goods coming from the east, Delhi or Sirsa, according to a pass or ruwannah, to be signed by the British authorities at Sirsa, and at Anoopghur, on goods coming from the west, Bombay or Bhawulpore, according to the pass to be signed by the British agent madtimud (native agent), at Bhawulpore, any merchant having no ruwannah with him signed by the British authority, will be subject to a search of his goods, and to pay the duties according to the above rates; and any merchant having with him a pass signed by the Bickaneer authorities, after paying the duties on his goods, will be liable to no further molestation or search by any of the keepers of the chowkies throughout the Bickaneer territory.

A letter shall subsequently be addressed through you to the Right honourable the Governor-general of India on the subject, specifying these arrangements, and you should always write to me regarding your happiness, and command me for any service.

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THE DURBAR OF BICKANEER to the Governor-General of India, 18 January 1844.

THE relations of friendship have existed between the two Governments since a long time, and the greatest kindness shown to me on my visit at Delhi was such as can never be adequately described.

For a long time measures have been in progress for opening a road from (the east) Delhi and Sirsa, on one hand, and from (the west) Bombay and Bhawulpore, on the other; and, from the reports of Mahta Maha Rao Hindoo Mull, it has now appeared, that he had made arrangements for the levy of duties, repairing the road, and other matters calculated for the good of the people, and the comfort of the travellers. These arrangements he had made known to Mr. Hamilton, and that gentleman had signified his approbation of the same. A report of these circumstances has been made to me, and the arrangements also meet my approbation.

I therefore beg to forward to your Lordship a copy of the same through Mr. Hamilton, trusting that it will also meet your Lordship's approval, and that it may be acted upon accordingly.

Be pleased to continue to write regarding your good health, and to command my services.

(signed) T. L. Peacock.

East India House, 10 April 1845.



VI.  
Engagement  
respecting Cession  
of Territory.

## VI.—Engagement with the Nawab of Bahawulpore, respecting Cession of Territory.

### ENGAGEMENT OF BAHAWULPORE, for the Cession of Land.

Nawab Mahomed Bahawul Khan Behadoor Ubbasee, to the Governor-general of India.

17th Mohurram, Anno Hegira,  
(corresponding with 7 February 1844, Anno Domini.)

I HAD heard that it was in your Lordship's contemplation to extend the British boundary on the Abohur frontier to the bank of the river Ghana ; and I have now learnt with pleasure, from Mr. R. N. C. Hamilton, the same in detail fully and particularly, and considered it highly consistent with true friendship to assist your Lordship in this matter. With this view, therefore, I have proposed that my officers, in concert with the British functionaries, shall commence a line of boundary from the bank of the river Ghana, between the villages of Buksh Chishtee and Ghonsa Salmika, situated in the Wuttoo district, and drawing it southward along the existing boundary, separating those two villages and passing it two English miles east of Jeejeel, will end it at and join it to the present northern boundary of the Abohur district, and all the lands and villages " Sindh and Chool" populated or deserted, lying to the east of the line so drawn, shall belong to the British Government, and those populated or unpopulated of Choolistan and Sindh, lying to west of the aforesaid line, shall belong to me as heretofore.

The particulars are these : at this time, the lands situated to the east and north-east of the above-mentioned line, i. e. between it and the Mundote frontier, and included within the present northern boundary of Abohur and the river Ghana, together with all the villages therein, I hereby, by this my writing, for ever relinquish, as a free gift, to the possession and dominion of the British Government. I trust that this will be agreeable to your Lordship, and cause you satisfaction, tending thereby to strengthen more foundation of friendship. Hoping that your Lordship will ever consider me anxious to hear regarding your good health, I pray you will continue to write to me regarding the same.

NOTIFICATION by the Honourable the Lieutenant-Governor,  
North Western Provinces.

Foreign Department, 21 March 1844.

UNDER authority received from the Right honourable the Governor-general of India in Council, the Honourable the Lieutenant-governor of the North Western Provinces, notifies the cession to the British Government by His Highness Mohummud Bahawul Khan, Behadoor Ubbasee, Nawab of Bahawulpore, of a strip of land between the village of Gun Buksh Chishtee and the frontier of the Mundote territory, and extending from the river Ghana to the boundary of pergunnah Ubohin, in the Bhuttee territory of Sirsa.

The lands thus acquired will be designated as pergunnah Wuttoo, and are annexed to the Bhuttee territory of Sirsa, and will be hereafter administered according to the laws and regulations which may be in force in that district.

The Hurrianah customs line is extended through this tract of country to the river Ghana or Sutlej.

By order of the Honourable the Lieutenant-governor, North Western Provinces.

(signed) *J. Thornton,*  
Secy to Govt, N. W. P.

East India House, }  
10 April 1845. }

(signed) *T. L. Peacock.*

## VII.—Draft Act for increasing Import Duties.

VII.  
Draft Act for  
increasing  
Import Duties.

FORT WILLIAM, Home Department, Legislative, 8 February 1845.

THE following draft of a proposed Act was read in Council for the first time on the 8th February 1845.

ACT No. OF 1845.

I It is hereby enacted, that from and after the so much of Act XIV. of 1836, so much of Schedule (A.) thereto annexed, so much of Act I. of 1838, so much of Schedule (A.) thereto annexed, so much of Act VI. of 1844, and so much of Schedule (A.) thereto annexed, as provides the rates of duty to be charged on the goods next hereinafter specified, be repealed:

Marine stores, the produce or manufacture of the United Kingdom, or of any British possession.

Marine stores, the produce of any other place or country.

Metals, wrought or unwrought, the produce or manufacture of the United Kingdom, or of any British possession.

Metals, wrought or unwrought, excepting tin, the produce or manufacture of any other place.

Woollens, the produce or manufacture of the United Kingdom, or any British possession.

Woollens, the produce of any other place or country.

Cotton and silk piece-goods, cotton twist and yarn, the produce of the United Kingdom, or of any British possession.

Cotton and silk piece-goods, cotton twist and yarn, the produce of any other place.

Wines and liqueurs.

Spirits.

All manufactured articles not included in the enumeration contained in the said Schedule.

II. And it is hereby enacted, that from and after the said day, duties of customs shall be levied on the goods specified in the Schedule annexed to this Act, imported by sea into Calcutta, or into any other place within the provinces of Bengal or Orissa, into any place in the territories subordinate to the Government of the Presidency of Bombay, and into any place within the territories subordinate to the Government of the Presidency of Fort St. George, according to the rates specified in the said Schedule annexed to this Act.

III. And it is hereby enacted, that Act XV. of 1844, intituled, "An Act for amending the Schedules of Import Duties annexed to Act XIV. of 1836, to Act I. of 1838, and to Act VI. of 1844, be repealed."

## SCHEDULE.

VII.  
Draft Act for  
increasing  
Import Duties.

RATES of DUTY to be charged on the following Goods imported by Sea into any Port of the  
Presidencies of FORT WILLIAM in BENGAL, BOMBAY and FORT ST. GEORGE.

ENUMERATION of GOODS.	When Imported on British Bottoms.	When Imported on Foreign Bottoms.
Marine stores, the produce or manufacture of the United Kingdom, or of any British possession.	5 per cent.	10 per cent.
Marine stores, the produce or manufacture of any other place or country.	10 per cent.	20 per cent.
Metals, wrought or unwrought, the produce or manufacture of the United Kingdom, or of any British possession.	5 per cent.	10 per cent.
Metals, wrought or unwrought, the produce or manufacture of any other place.	10 per cent.	20 per cent.
Woolleas, the produce or manufacture of the United Kingdom, or any British possession.	5 per cent.	10 per cent.
Woolleas, the produce of any other place or country - -	10 per cent.	20 per cent.
Cotton and silk piece-goods, and all manufactures of cotton or silk, except thread, twist and yarn, or of cotton or silk mixed with any other material, the produce of the United Kingdom, or of any British possession.	5 per cent.	10 per cent.
Ditto, the produce of any other place - - - -	10 per cent.	20 per cent.
Cotton, thread, twist and yarn, the produce of the United Kingdom, or any British possession.	3½ per cent.	7 per cent.
Ditto, the produce of any other place - - - -	7 per cent.	14 per cent.
Porter, ale, beer, cyder and other similar fermented liquors	5 per cent.	10 per cent.
Wines and liqueurs - - - - -	- - 1 rupee per imperial gallon.	- - 2 rupees per imperial gallon.
Spirits - - - - -	- - 1 rupee and 8 annas per imperial gallon.	- - 3 rupees per imperial gallon.
And the duty on spirits shall be rateably increased as the strength exceeds London proof; and when imported in bottles, 5 quart bottles shall be deemed equal to the imperial gallon.		
All manufactured articles not included in the above enumeration.	5 per cent.	10 per cent.

*Ordered,* That the draft now read be published for general information.

*Ordered,* That the said draft be reconsidered at the first meeting of the Legislative Council of India after the 8th May next.

(signed) *G. A. Bushby,*  
Secretary to the Government of India.

East India House,  
10 April 1845. }

(signed) *T. L. Peacock,*  
Examiner of India Correspondence.

VIII.  
Sea and Land  
Customs, and Salt  
Duties.

### VIII.—Extracts and Copies of Despatches respecting Sea and Land Customs and Salt Duties.

EXTRACTS from a DESPATCH in the Separate Revenue Department, from the Court of Directors of the East India Company, to the Governor General of India in Council; dated the 7th June (No. 5) 1837.

Customs:

Public Letter, dated 2 September 1835, para. 204 & 213.

Separate Letter, dated 2 March (No. 1.) 1836.

Separate Letter, dated 2 March (No. 2.) 1836, para. 23 & 36.

Separate Letter, dated 6 July (No. 4.) 1836.

Para. 1. — We now reply to the letters and paragraphs noted in the margin, which bring to our notice the proceedings connected with the abolition of the transit and town duties throughout the districts subject to the Governments of Bengal and Agra, and the enactment of Act No. XIV. of 1836, effecting various alterations in the rates of duties levied upon sea-borne commerce.

3. In

3. In consequence of a resolution of the Supreme Government passed in July 1834, a committee was appointed, consisting of civil servants of all the Presidencies, "for the purpose of investigating and reporting upon the system in force for levying export, import and transit duties under the three Presidencies."

5. The first meeting of the committee was held at Calcutta in May 1835, and their first report to Government, which contained a detailed view of the actual system under which the customs, transit and town duties were levied in the several Presidencies, with an outline of the changes which had taken place since our acquisition of the territories composing them, was dated the 27th January 1836.

6. In the same month, the Supreme Government received information that the Governor of Agra had abolished the custom-houses of Bareilly, Futtehghurh and Cawnpore, and subsequently those of Benares and Ghazeepore, as well as the chowkies attached to the Allahabad custom-house.

7. The extinction of the internal custom-house of the Agra Presidency involved, of course, the virtual abolition of the internal customs, which were levied by their agency. It was apparent that a different system could not be allowed to prevail in two Presidencies so closely connected as those of Bengal and Agra, and even then on the point of being re-united. There were thus only two alternatives for your selection, either to rescind the orders of the Governor of Agra, and re-establish the abolished custom-houses, or to pursue the same course of policy, by abolishing also the internal custom-houses of the Bengal Presidency.

8. The first course was open to serious objections. It would have been manifestly unwise to restore a system which you were not fully determined to maintain, and unsettle the minds of the people by exhibiting so prominently a want of unity of principle or of stability of purpose on the part of their rulers.

9. Under the embarrassing circumstances in which you were placed, we think that you judged rightly in determining upon the abolition of the inland custom-houses of Bengal. The measure itself is in entire accordance with our previously expressed views on the subject; and our only regret is, that you were precipitated into its adoption without having been enabled to form any available plan for compensating the loss of revenue, which was the necessary consequence of the relinquishment of the transit duties.

10. The measure thus adopted was carried into effect by a public notification, dated the 1st March 1836; and by a subsequent notification, dated the 20th April, the town duties were also abolished from the 1st May 1836.

11. It was the intention of the committee to whom the general question of customs duties had been referred, to submit for your approbation a plan applicable to the whole of the territory under your government, understanding, as they state in their letter of the 12th March 1836, that they were bound by the tenor of their instructions, "to regard the whole of India in the light of one empire, the interests of all parts of which were to be considered, not with the view of applying separate remedial measures to each, and of leaving the line of demarcation which partitions each Presidency into a distinct country, whose fiscal system has reference to itself alone as strongly defined as ever, but with the intent of blending and reconciling them, so as, if possible, to reduce the customs laws of all the Presidencies into something like simplicity and uniformity, without losing sight of the financial interest of the State."

12. The reports of the committee, embodying the measures by which these desirable objects were to be effected, have not yet been laid before us. Those measures are, however, further indicated in another passage of the same letter, as including the abolition of the internal customs in every part of British India, and the substitution of an uniform export and import duty.

13. The relinquishment of the transit and town duties throughout the Presidencies of Bengal and Agra, rendered it necessary to avoid all delay in looking elsewhere for some compensation for the loss of those branches of revenue. The only available source for this purpose was to be found in the external trade of Bengal, and you accordingly resolved, without waiting for the propositions to be submitted by the committee, which were not yet matured, to impose such additional burthens on the sea-borne commerce as might, at least in some measure, make up the deficiency which you anticipated in your revenues.

14. The actual loss occasioned by the relinquishment of the town and transit duties, is variously estimated by different authorities. The committee, in the letter previously quoted, express their "conviction that the deficit arising from the entire abolition of the internal custom-houses in the Bengal and Agra Presidencies will be very small," and their "strong persuasion that there will be no deficit at all." Mr. Ross, in a minute dated the 23d May 1836, endeavours to show that the alteration of system has actually caused a profit to the revenue of 1,93,986 rupees, and that a very large increase in this amount may be anticipated. The Board of Customs, in their letter dated the 21st March 1836 (without, however, including the amount of actual or prospective increase in the receipts on the Agra frontier line), assume a deficiency of 13,00,000 rupees, to which they add one lac as the expense of the necessary increase of establishment at the Calcutta custom-house.

15. We are not in possession of the means of entering into a critical analysis of the calculations which have led to these different results. Assuming, however, as you have done, the least favourable view of the change to be that which approaches the nearest to the truth, the amount of deficiency is not so great but that we may reasonably calculate on its being speedily compensated, by means of the impetus which the withdrawal of the vexatious and harassing restrictions imposed by the town and transit duties on the internal trade of the country must give to general commerce.

16. The Governor-general, in his minute dated the 14th April 1836, after stating the amount of deficit at 14,00,000 rupees, observes, "We are not, I am clearly of opinion, bound to supply the whole of this amount out of direct additions to the duties of sea customs. We may fairly take into account the improvement of income which has been already proved to be secured by the establishment of the more effective preventive line on the North Western frontier; we may allow something for the promises which are largely, and apparently upon good grounds, made of further improvements from the same source; and I think that we are also justified in taking into account the impulse which will be given to internal industry by a removal of one of the greatest impediments by which it has ever been oppressed, and for an increased production in all other sources of revenue from the improved means of payment, which relief from these exactions must give to the whole country. Some further allowance may justly also be made for improvement in the customs duties by increased consumption, and by a mode of collection more effective and less vexatious in its operation, than that which has hitherto been followed."

17. Acting on these views, the Governor-general proposed for adoption a revised scale of export and import duties, the effect of which, taking the registered value of the trade of 1834-35 as the basis of the calculations, would be to increase the sea customs revenue to the extent of six lacs and a quarter per annum. This scale, after being submitted to further revision, in communication with the mercantile community of Calcutta, in the course of which alterations were adopted calculated to produce a further increase of the customs revenue to the extent of nearly two lacs of rupees per annum, was finally passed as Schedules (A.) and (B.) to Act No. XIV. of 1836.

18. The rates which you have adopted appear to have been fixed after the most careful inquiry, and we see nothing to object to in the general principles by which your decisions have been regulated.

22. The whole measure must be regarded as provisional, and open to any alterations which further inquiry and consideration may show to be expedient. In the letter from Mr. Secretary Prinsep, to the Board of Customs, dated the 18th May 1836, it is observed, that "the Governor-general in Council is fully sensible that the provisions of this Act are very imperfect, and that nothing short of a full and precise code of customs law for imports and exports, framed either on the principles of the draft prepared in 1823-24, or on those of the customs law of England, will effectually answer the purpose in view. The urgency, however, of the necessity of providing a present remedy for the consequences of the abandonment of the former system, has been the principal inducement with the Governor-general of India in Council to wait the preparation and adaptation to existing circumstances of the extended code referred to."

23. The abolition of transit duties in Bengal presented much fewer difficulties than those which you will have to encounter in extending the benefits of the measure

measure to the other Presidencies. The amount of deficit arising from the relinquishment of the town and transit duties, was much less in comparison with the extent of territory over which they were levied, and the capacity of the maritime commerce of Calcutta, to support compensating burthens was much greater, certainly than that of Madras, and probably than that of Bombay.

24. The net amount of inland customs and town duties under the Madras Presidency is about 30 lacs of rupees. Of this amount, however, about ten lacs are properly assignable to sea customs, leaving still a deficiency of twenty lacs; an amount which could never be compensated by any addition to the already heavily taxed commerce of that Presidency.

25. Under the Presidency of Bombay, the net amount of transit and town duties is estimated to exceed 18 lacs of rupees, and it is believed that nearly this amount might be raised by increased duties on the maritime commerce of that Presidency. It must be recollected, that some portion of this amount is derived from salt, an article which is now heavily taxed in every other part of British India, and which is expressly excepted from the operation of the abolition of the transit duties in the Western Provinces of Bengal. It may therefore be worthy of consideration, whether some portion of the general deficit may not be supplied by continuing, in some other form, the duty now derived by the Bombay Government from that article.

26. Under the most favourable view of the case, we apprehend that we must look for the recovery of a considerable portion of the deficiency to the effects of the impulse which must necessarily be given to internal industry, and external commerce, by the removal of those impediments which have hitherto pressed upon them, and for the full development of these effects, the lapse of some years will probably be necessary.

27. We have only to express our earnest hope, that the customs committee, to whom the task of devising the means by which the benefits already secured to Bengal may be extended to the other Presidencies, has been entrusted, may be enabled to bring their labours to a speedy termination.

28. You will of course keep us fully informed of the further measures which you may adopt on this important subject; and we desire, that as soon as a sufficient period shall have elapsed to enable you to judge of the results of the change of system, you will furnish us with statements in as detailed a form as possible, of its effects both on the revenues, and on the internal and external commerce of the country.

29. Since the foregoing paragraphs were prepared, we have received your letters of the 19th October (No. 6) 1836, and the 4th January (No. 1) 1837.

30. In para. 13, of the first letter, you state, that you trust we shall, when fully informed of the real character of the taxation prevailing in the interior of both the other Presidencies, be sensible of the necessity of some considerable change, and shall be disposed to enlarge the discretion left to you, in respect to the abandonment of existing sources of the public income, and to approve such partial measures, not involving any extensive sacrifice of income, or likely to interfere with other financial arrangements, as in the meantime you may be led to adopt.

32. You inform us, that you had not determined how far to sanction the principles on which the customs committee proposed to afford relief, or to the details comprehended in that plan; but as you do not appear to object to that part of the scheme which would confine the relief to the maritime districts of Madras, while the whole of the interior of the Bengal and Agra provinces, as well as of the districts in Bombay, would be exempted from transit and town duties, it becomes necessary for us to record our dissent from such a system of partial relief.

33. If financial considerations will not enable you to afford to the whole of the districts of Madras and Bombay, the same measure of relief which has been given to the provinces of Bengal and Agra, we are clearly of opinion, that justice and sound policy require, that the relief in the two subordinate Presidencies should be extended to articles of consumption or of commerce, and not to districts —

VIII.  
Sea and Land  
Customs, and Salt  
Duties.

EXTRACT of a DESPATCH in the Separate Revenue Department, from the Court of Directors of the East India Company, to the Governor General of India in Council ; dated the 3d July (No. 9) 1844.

Financial Letter, dated 15 September  
(No. 42.) 1843.  
Financial Letter, dated 16 February  
(No. 10 a.) 1844.  
Legislative Letter, dated 16 March  
(No. 7.) 1844.

Para. 1.—WE now reply to your letters of the dates noted in the margin, which report your proceedings connected with the enactment of Act No. VI, of 1844, “for abolishing the Levy of Transit or Inland Customs Duties, for revising the Duties on Imports and Exports by Sea, and for determining the Price at which Salt shall be sold for Home Consumption, within the Territories subject to the Government of Fort St. George.”

2. By this enactment you have entirely freed the internal commerce of Madras from the restrictions and annoyances to which it has hitherto been subject through the continuance of the transit duties, and you have assimilated the rates of duty on imports and exports by sea to those in force at the other Presidencies.

3. Of these measures, by which the internal and external commerce of Fort St. George is placed on the same footing as that of the rest of the Company's possessions, we entirely approve.

4. With the view of making up the loss of revenue which will be occasioned by the entire abolition of the transit duties, and the reduction in the rates of sea customs, and in consideration of the relief to the people which will be thereby afforded, you have resolved to raise the price of salt sold for consumption within the Madras territories, from 105 rupees the garce, (the highest amount which it has ever borne, and at which it has been fixed for the last 16 years) to one rupee eight annas the maund, or 180 rupees the garce.

5. On the receipt of the letter intimating your intention to raise the price of salt to this extent, the Madras Government remonstrated against it, stating their conviction that a sudden “rise in the present monopoly price, to the extent of 75 rupees per garce, would have a most serious influence on the home and inland trade, and would be an inducement to the inhabitants to procure salt illicitly, or to use the unwholesome earth-salt which is easily produced in every district.”

6. The Madras Government admitted that the relief afforded to all classes of the community by the abolition of the inland transit duty, might justify some increase in the monopoly price of salt, but they were of opinion, that the highest amount which it would be safe or reasonable to impose would be, 127½ rupees per garce, or 1. 1. rupees per maund.

8. Your determination to increase the sale price of salt in the Madras Presidency, appears to have been formed rather with reference to the much larger comparative amount which is realized in Bengal from that source of revenue, than from any considerations arising out of the particular circumstances of the Presidency of Madras. But we have to remark, that your Government in 1831 reduced the fixed price of the Cuttack Abra salt, provided for the supply of the southern division of Cuttack, and of the adjoining countries to the northward of that district, from 1 rupee 12 annas, to 1 rupee 4 annas per maund, with the view of lessening the consumption of the Ganjam Kurkutch salt, in the territory dependent on the Presidency of Bengal ; and as we are not aware that any alteration has been made in the system which was established in the southern division of Cuttack in 1831, it must follow, that the salt of Ganjam, which was then admitted to be inferior in quality to the Abra salt, will be much more heavily taxed than that of Cuttack.

9. Upon a consideration of all the circumstances above adverted to, we are so strongly convinced that an increase to the extent ordered by you of the monopoly price of salt in the Madras Presidency, while it may prove unsuccessful in a financial point of view, will operate with extreme severity towards the poorer classes of the population, and will be morally injurious, by holding out to many persons a temptation too strong to be resisted, to commit breaches of the law, by engaging in the contraband trade in salt from the seacoast, and in the illicit manufacture of it in the interior, that we cannot give our sanction to the increased duty which you have established.

10. We accordingly direct, that on the receipt of this despatch, you immediately avail yourselves of the power reserved to you in the 44th section of the Act, and that you issue orders for the reduction of the price of salt under the Madras Presidency, to one rupee per maund, which, by Act VI. of 1844, has now become the

the standard measure, by which salt will be sold throughout India. We are aware that the Government of Madras have objected to the substitution of the maund on account of its being a weight, and therefore inapplicable for the measure of the quantity of an article which absorbs moisture at times. There would, however, be little difficulty in providing a measure containing a maund of dry salt, which, while it would secure uniformity in the salt accounts of the three Presidencies, would, under an efficient system of local check, tend to prevent abuses in the receipt of salt into store, and its delivery to purchasers, similar to those which were in 1841 discovered to have been practised in the district of Vizagapatam by the native officers in the Salt Department.

11. We shall transmit an extract from this despatch to the Government of Madras, with instructions to anticipate the receipt of your orders, by making the necessary communications to the collectors in the maritime districts, for the immediate reduction of the price of salt to the amount which we have specified.

12. We observe, that in the papers which accompany the letters to which we are now replying, you have expressed your determination to raise the tax on salt in the Bombay Presidency from eight annas to one rupee per maund, "in order to equalize the average prices at the two Presidencies." The reduction which we have ordered in the price of Madras salt, will render this increase of duty at Bombay unnecessary for the purpose above assigned; but it is also stated (resolution of Government 16th February 1844) that the increase of tax on Bombay salt is intended to provide for the deficiency of revenue, which will be occasioned by the abolition of the remaining town duties still levied under that Presidency.

13. The present duty of eight annas per maund on Bombay salt, was imposed in 1838, before which period the tax on that article was altogether insignificant, producing for the whole Presidency a revenue of only about 20,000 rupees per annum. The administration of the salt revenue is yet far from perfect, and great difficulty has been experienced from the influx into our dominions of salt produced in the territories of native chieftains, where it may be procured at a low price, and in unlimited quantities, to prevent which effectually would require the services of establishments so large and expensive, as would render the salt revenue scarcely worth collecting. This difficulty would, of course, be increased by any augmentation in the duty on salt, in proportion to the extent of that augmentation, and we are convinced that an augmentation so large as that which you propose, would lead to an enormous increase in the contraband trade and illicit manufacture, and thereby defeat its own purpose.

14. We therefore desire, that if, on further consideration, you should see grounds for raising the duty on salt in the Bombay Presidency, the rate be on no account fixed at a higher amount than 12 annas per maund.

15. In your notification of the 16th March 1844, it is stated, that "in the event of its becoming necessary eventually to resort to additional modes of supply to meet the loss incurred, the Governor-general in Council would look to the sea customs of India as an available source of further income; and, however reluctant he would be to impose a new burden upon foreign commerce, he cannot but feel that the Government of India may be compelled to have recourse to an increase of the duties both on imports and exports by sea, at all the Indian Presidencies, should a measure of this nature be pressed upon it by the financial exigencies of the State."

16. The subject of these duties is under our consideration, and as the rates of sea customs in India are generally very moderate, we think that you may look to some increase of them as a legitimate source of additional income. We should be unwilling, without absolute necessity, to increase the rates of duty on exports, as such a measure must have a tendency to check the development which we trust to be now steadily advancing, of the capability of India to supply many of the great staples of commerce, for the consumption of other parts of the world; but with regard to many articles of import, we are of opinion, that such a moderate addition might be made to the present rates of duty as would considerably benefit the revenue, without materially diminishing consumption.

17. We trust that we shall be able to address you more particularly upon the subject at no distant period, and to furnish you with specific instructions for your guidance.



VIII.  
Sea and Land  
Customs, and Salt  
Duties.

COPY of a DESPATCH in the separate Revenue Department, from the Court of Directors of the East India Company to the Governor-general of India in Council, dated the 4th December (No. 15) 1844.

Para. 1. In the concluding paragraphs of our despatch, dated the 3d July last (No. 9), we informed you that the subject of import duties was under our consideration, and as the rates of sea customs in India are generally very moderate, we were of opinion that you might look to some increase of them as a legitimate source of additional income; and we stated that we should shortly address you more particularly on the subject, and furnish you with specific instructions for your guidance.

2. We consider that the rates of duty on goods of British manufacture may reasonably be raised to an amount more nearly corresponding with those levied in the colonies of Mauritius and the Cape of Good Hope, and that fermented and spirituous liquors, articles which are used almost entirely for purposes of luxury, the consumption of which, moreover, is confined principally to the European community, may fairly be made to yield a larger amount than they do at present, to the public revenue.

3. We accordingly direct, with the approbation of the Board of Commissioners for the Affairs of India, that the present rates of duty on the importation of all goods the manufacture of the United Kingdom or of any British possession, be increased to one general rate of five per cent. ad valorem. From this increase, however, we would except the articles of thread, twist and yarn, which, being only partially manufactured, and furnishing employment for Indian labour, we wish to be retained at the present rate of three and a half per cent. ad valorem.

Present Rates:

Woollens	-	-	-	2 per cent.
Marine stores	-	-	-	3 per cent.
Metals (exclusive of tin)	-	-	-	3 per cent.
Cotton and silk piece-goods	-	-	-	3½ per cent.
Manufactures not specially enumerated	-	-	-	3½ per cent.

Present rate, 3½ per cent.

Present rate, 10 per cent.

Present rate, 9 annas per gallon.

4. We further direct that the rate of import duty on fermented liquors, such as porter, ale and cyder be raised to five per cent. ad valorem; and that the rate of import duty on wines be fixed at one rupee, and on spirits at one rupee and eight annas per imperial gallon.

5. You will understand, that in the case of manufactured goods, it is not our intention to disturb the present arrangement, by which double rates of duty are levied on similar articles the produce of foreign countries, nor with respect both to manufactures and liquors, with that which renders the same articles, when imported in a foreign bottom, subject to double the amount of duty to which they would be liable, if imported under a British flag.

6. For the reasons assigned in paragraph 16 of our despatch of the 3d July (No. 9) 1844, we are opposed to any increase in the rates of duty on exports, and we do not therefore propose that any change should be made in the present scale.

7. We desire that, on the receipt of this despatch, you immediately take the necessary proceedings in the Legislative Department for carrying our instructions into effect, by amending the Schedules appended to Acts XIV. of 1836, I. of 1838, and VI. of 1844, in conformity thereto.

8. The information contained in the reports of external and internal commerce, which we receive from the several Presidencies, is not such as to enable us to do more than to make an approximative estimate of the results of the change which we have ordered.

9. We find that, on an average of the last five years, for which those reports have been received, the annual value, as nearly as we can ascertain, of the several articles of manufacture which will be affected by the measure has been, as stated in the margin,\* producing at the present rates of duty an annual revenue of 12,97,250 rupees,

* DESCRIPTION.	Value.	Rate of Duty.	Amount of Duty.
	<i>Rupees.</i>		<i>Rupees.</i>
Woollens	17,50,000	2 per cent -	35,000
Metals (exclusive of tin)	75,00,000	3 " -	2,25,000
Marine, &c. stores	22,00,000	3 " -	66,000
Cotton and silk piece-goods	2,00,00,000	3½ " -	7,00,000
Sundry manufactures	77,50,000	3½ " -	2,71,250
TOTAL	3,92,00,000	- - -	12,97,250

12,97,250 rupees. The general rate of five per cent. applied to these articles will give an amount of 19,60,000 rupees, exceeding the present amount of revenue in the sum of 6,62,750 rupees.

VIII.  
Sea and Land  
Customs, and Salt  
Duties.

10. From the same returns (which, however, are in many cases defective in giving values only without quantity), we estimate that the value and quantity of ale, wine and spirits imported into the three Presidencies, is as stated in the margin,\* and that the aggregate amount of revenue obtained from them is 4,65,850 rupees per annum. At the rates which we have ordered to be hereafter imposed, the aggregate amount of receipt will be 11,25,000 rupees,† so that we may look to this source for an annual increase of revenue to the extent of 6,60,000 rupees.

11. As we consider that the alterations now directed do not exceed, in the language of the despatch before referred to, "such an addition to the present rates of duty as may considerably benefit the revenue without materially diminishing consumption," we think that we may confidently rely on obtaining from the combined measures an increase of income of not less than 13 lacs of rupees per annum.

12. When the Act shall have been passed, we desire that, in addition to the usual number of copies transmitted in the Legislative Department, you will furnish us in this department, by the overland mail, with 50 copies for communication to the foreign ambassadors and consuls, and such other parties as it may be desirable to make acquainted with the change in the law.

We are, &c.

London,  
4 December 1844. }

(signed) *John Shepherd,*  
*Henry Willock, &c. &c.*

• DESCRIPTION.	Value.	Quantity.	Rate of Duty.	Amount of Duty.
	<i>Rupees.</i>	<i>Gallons.</i>		<i>Rupees.</i>
Ale, cider, &c. - - -	11,00,000	- - -	3½ per cent. - - -	38,500
Wines and liqueurs - - -	21,36,000	5,00,000	10 „ - - -	2,13,600
European spirits - - -	8,25,000	3,80,000	9 annas per gallon	2,13,750

† Description.	Rate of Duty.	Amount of Duty.
		<i>Rupees.</i>
Ale - - - -	5 per cent. - - -	55,000
Wines - - - -	1 rupee per gallon - - -	5,00,000
Spirits - - - -	1½ rupee per gallon - - -	5,70,000

East India House, }  
10 April 1845. }

(signed) *T. L. Peacock,*  
Examiner of India Correspondence.

EAST INDIA.

COPIES of ACTS of the Government of *India*, for  
altering the SEA and INLAND CUSTOMS DUTIES;  
also, Extracts of DESPATCHES from the Court of  
Directors to the Governor-General on the pro-  
posed Alterations of the Customs Duties.

(*Mr. Stuart Wortley.*)  
(*Mr. Hume.*)  
(*Viscount Jocelyn.*)

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*Ordered, by The House of Commons, to be Printed,*  
*28 April 1845.*

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## EAST INDIA.

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ACTS passed by the Honourable the PRESIDENT of the COUNCIL of *India*, and  
by the Right Honourable the GOVERNOR-GENERAL, in COUNCIL, for 1843 ;  
with INDEX.—(Pursuant to Act.)

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East India House, }  
1845.

JAMES C. MELVILL.

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*Ordered, by The House of Commons, to be Printed, 28 May 1845.*

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## ACTS of the Government of India ; 1843.

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### ACT No. 1. OF 1843.

Passed by the Honourable the President of the Council of India in Council  
on the 27th of January 1843, with the Assent of the Right Honourable the  
Governor-General of India.

ACTS of 1843.

AN ACT for amending the Law concerning the Registration of written Conveyances  
and other Instruments affecting Titles and other Interests to Land.

**W**HEREAS the Registry Laws now in force in the respective Mofussils of  
Bengal, Madras and Bombay provide that registered conveyances and  
other instruments affecting titles to land and other interests therein shall not take  
precedence of unregistered conveyances and instruments in cases where the  
party registering shall have known of the existence of such unregistered convey-  
ances or other instruments : And whereas a complicated system of law has  
arisen out of the construction which is to be given to the provisions regarding  
the knowledge of parties, or notice had by them in such cases : And whereas  
much perjury has been committed in investigations touching the fact of such  
notice or knowledge, and much of the time of the courts has been occupied  
with such investigations : And whereas in consequence of forgeries, perjuries,  
fraudulent concealments and other practices, no person purchasing or advancing  
money on the security of land can safely rely on the conveyances or other  
instruments affecting the title to such land or other interest, ~~therein~~ affording,  
by means of their being registered, a security against conveyances or instruments  
being set up, as of previous date, by unregistered claimants ;

It is hereby enacted, that all provisions contained in any Regulation or Regu-  
lations of the Bengal, Madras or Bombay Codes, touching such knowledge or  
notice as aforesaid, of previous unregistered conveyances or instruments affecting  
titles to land or other interests therein, shall be repealed from the first day of  
May next ; and every conveyance or other instrument affecting title to land, or  
any interest in the same, authorized by those Codes respectively, to be registered,  
shall, so far as regards any lands to which the same relate, be void as against  
any person claiming under any subsequent conveyance or other instrument duly  
registered, unless the prior conveyance or instrument shall have been duly regis-  
tered before the registration of the subsequent conveyance or instrument ; any  
alleged notice or knowledge of such prior conveyance or instrument notwith-  
standing : Provided always, that this Act shall not be construed to extend to any  
conveyance or other instrument made before the first day of May next.

ACTS of 1843.

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ACT No. II. of 1843.

Passed by the Honourable the President of the Council of India in Council, on the 1st of February 1843, with the Assent of the Right Honourable the Governor-General of India.

AN ACT to regulate the Sittings of the Courts of Sudder Dewanny Adawlut.

I. It is hereby enacted, in modification of section 16, Regulation XXV. 1814, that when a single judge of the Sudder Dewanny Adawlut, trying a case in appeal, regular or special, from any subordinate court, shall be of opinion that the decision appealed from ought to be reversed or altered, he shall always call in two other judges of the court to sit with him, and that the appeal shall be then heard by the three judges sitting together, and be decided by them without any additional voices. In such cases the decree or final order shall be signed by the three judges, if they agree together; but if one of them dissent from the view taken by the majority, by the two judges who agree together, and the signature of the third judge shall not be considered requisite, but his opinion shall be recited in the decree or final order.

II. Provided, that the above rule shall not be applicable to summary appeals, or to appeals in miscellaneous cases, nor shall it be held to interfere with the powers of a single judge of the Sudder Dewanny Adawlut, under clause 2, section 2, Regulation IX. 1831.

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ACT No. III. of 1843.

Passed by the Honourable the President of the Council of India in Council on the 1st of February 1843, with the Assent of the Right Honourable the Governor-General of India.

AN ACT for amending the Rules of Special Appeals.

I. It is hereby enacted, that from and after the 1st day of May next, a special appeal shall lie to the courts of Sudder Dewanny Adawlut at Calcutta and Allahabad respectively, to the court of Sudder Adawlut at Madras, and to the court of Sudder Dewanny Adawlut at Bombay, from all decisions passed on regular appeals in the civil courts subordinate to them respectively, which shall appear to be inconsistent with some law, or usage having the force of law, or some practice of the courts, or shall involve some question of law, usage or practice, upon which there may be reasonable doubts.

II. And it is hereby enacted, that applications for special appeals shall not be admitted unless they are presented to the proper court as aforesaid within the period limited for the presentation of regular appeals.

III. And it is hereby enacted, that every application for a special appeal shall be accompanied by copies of the several decrees previously passed on the case.

IV. And it is hereby enacted, that every application for a special appeal, duly presented to the proper court as aforesaid, shall be heard by a single judge of the court in the presence of the special appellant or his vakeel or agent, and it shall be competent to the judge, at his discretion, to call for and peruse any document forming a part of the record of the cause, and to summon the opposite party to answer the application.

V. And it is hereby enacted, that if it shall appear to the judge that a special appeal is admissible under this Act, he shall pass an order accordingly, and shall at the same time reduce the point or points to be determined to writing, in English, in the form of a certificate, which shall be translated into the vernacular language in use in the court, and the special appeal shall then be brought on the file of the court, to be heard and determined in due course: Provided, that it shall not be necessary to call for or refer to any part of the proceedings the  
reading

reading of which is not required for deciding the point or points of law stated in the certificate.

ACTS of 1843.

VI. And it is hereby enacted, that if it shall appear to the judge that a special appeal is not admissible under this Act, he shall reject the petition, and his order so rejecting a petition for a special appeal shall be final.

VII. And it is hereby enacted, that in every case of special appeal admitted as aforesaid, the court of Sudder Dewanny Adawlut shall determine the point or points, certified as above enacted, and no other point or part of the case whatever.

VIII. Provided, that when the special ground of appeal may have been incorrectly or incompletely certified, it shall be competent to the court to amend the certificate: Provided, that such amendment shall relate only to the point or points originally stated in the certificate, and it shall not be lawful for the court to receive or add any new point or points.

IX. And it is hereby declared, that the existing laws and regulations of the Presidencies of Bengal, Madras and Bombay relating to special appeals, shall continue in force, so far as they are not inconsistent with the provisions of this Act.

X. And it is hereby enacted, that nothing contained in this Act shall affect the hearing of second or special appeals which shall have been admitted and be pending in appeal before the said 1st day of May next, and that all such second or special appeals shall be heard and decided in the same manner as if this Act had not passed.

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ACT No. IV. of 1843.

Passed by the Honourable the President of the Council of India in Council on the 24th of March 1843, with the Assent of the Right Honourable the Governor-General of India.

AN ACT for amending the Law concerning Appeals from Justices of the Peace, and from Magistrates acting under the Statute 53 Geo. 3, c. 155.

Whereas, in many cases provided by law, offences may be prosecuted before magistrates not acting within local limits of the jurisdiction of Her Majesty's Supreme Courts, and which such magistrates may take cognizance of either in their magisterial capacity under the regulations, or as justices of the peace: And whereas the appeal from convictions before magistrates acting in their magisterial capacities, and from the like convictions before justices of the peace are subject to different rules: And whereas in all cases of convictions before justices of the peace in the Mofussil, and before magistrates exercising jurisdiction under the provisions of Statute 53 Geo. 3, c. 155, in cases of assaults, forcible entries, or other injuries accompanied with force committed by British subjects, the law as to appeals requires amendment;

I. It is hereby enacted, that an appeal shall lie from all sentences passed by any justice of the peace acting without the local limits of any of Her Majesty's Supreme Courts upon convictions had before him for any offence, and from all sentences passed by any magistrate upon convictions had before him, exercising such jurisdiction as aforesaid, to the same authority and subject to the same rules as are provided by the Regulations and Acts of the Government in the case of sentences passed by magistrates in the exercise of their ordinary jurisdiction; and cases so made the subject of appeal shall not be afterwards liable to revision by means of a writ of certiorari.

II. And it is hereby provided that nothing in this Act contained shall be held to take away the power of quashing any conviction by means of a writ of certiorari, in any other case than where there has been such appeal as aforesaid.

ACTS of 1843.

**ACT No. V. of 1843.**

Passed by the Honourable the President of the Council of India in Council on the 7th of April 1843, with the Assent of the Right Honourable the Governor-General of India.

**AN ACT for declaring and amending the Law regarding the condition of Slavery within the Territories of the East India Company.**

I. It is hereby enacted and declared, that no public officer shall, in execution of any decree or order of Court, or for the enforcement of any demand of rent or revenue, sell or cause to be sold any person, or the right to the compulsory labour or services of any person, on the ground that such person is in a state of slavery.

II. And it is hereby declared and enacted, that no rights arising out of an alleged property in the person and services of another as a slave, shall be enforced by any civil or criminal court or magistrate within the territories of the East India Company.

III. And it is hereby declared and enacted, that no person who may have acquired property by his own industry, or by the exercise of any art, calling or profession, or by inheritance, assignment, gift or bequest, shall be dispossessed of such property or prevented from taking possession thereof on the ground that such person, or that the person from whom the property may have been derived, was a slave.

IV. And it is hereby enacted, that any Act which would be a penal offence if done to a free man, shall be equally an offence if done to any person on the pretext of his being in a condition of slavery.

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**ACT No. VI. of 1843.**

Passed by the Honourable the President of the Council of India in Council, on the 21st of April 1843, with the Assent of the Right Honourable the Governor-General of India.

**AN ACT for amending the Law concerning the Jurisdiction and Procedure of the Courts of Ameens and Moonsiffs.**

I. In modification of clause 4, section 18, Regulation V. of 1831, Bengal Code, it is hereby enacted, that in the trial and decision of all original suits referred to them by the judge, the principal sudder ameens shall be guided by the rules established for the conduct of business in the courts of the zillah and city judges.

II. And it is hereby enacted, that the provisions of section 4, Act No. XXV. of 1837, in respect to appeals from decisions passed by principal sudder ameens, in suits of the nature specified therein, be extended to all interlocutory orders passed by those officers in such suits.

III. And it is hereby enacted, that such parts of Regulation XXIII. 1814, as prohibit the sudder ameens and moonsiffs from requiring security from defendants; or from attaching their property in cases pending before them; or from realizing fines imposed by them without first obtaining the sanction of the zillah judge, be repealed.

IV. And it is hereby enacted, that it shall be competent to the sudder ameens and moonsiffs to demand security from the defendant, under the provisions of sections 4 & 5, Regulation II. 1806, in cases pending before them; and also to proceed, without reference to the zillah judge, to the realization of fines imposed by them, provided that all orders passed by the sudder ameens and moonsiffs under this section, be subject to an appeal to the zillah judge.

V. And it is hereby enacted, in modification of section 22, Regulation V. of 1831, that decrees passed in the courts of the judges or principal sudder ameens

ameens, in cases of appeal from the decisions of the sudder ameens or moonsiffs, shall be executed by the courts in which the original decisions were passed, under the general rules prescribed for the execution of decrees passed by those courts; applications for the execution of such decrees shall be presented, together with a certified copy of the decree of the judge or principal sudder ameen to the court of original jurisdiction. In appeals from the orders of the moonsiff or sudder ameen, in such cases the decision of the zillah or city judge shall be final.

VI. And it is hereby enacted, that clause 2, section 13, Regulation XXIII. 1814, and clause 4, section 5, Regulation V. 1831, be repealed.

VII. And it is hereby enacted, that no person whatever shall, by reason of place of birth, or by reason of descent, be in any civil proceeding whatever, exempted from the jurisdiction of the courts of the moonsiffs, in the territories subject to the Presidency of Fort William in Bengal.

VIII. And it is hereby enacted, that persons invested with the powers of moonsiff shall be competent to receive, try, and determine suits of every description under the restrictions as to local jurisdiction and value of property mentioned in clauses 1, 2 and 3, section 5, Regulation V. 1831: Provided, however, that no moonsiff shall try any suit in which he himself, or any of his relatives or dependents, or any of the vakeels or officers of his court shall be a party.

IX. And it is hereby enacted, that in cases where, by reason of the above section, a moonsiff cannot try a suit, because he himself, or any of his relatives or dependents, or any of the vakeels or officers of his court is a party to the suit, it shall nevertheless be competent to the moonsiff to receive the suit, and forward it to the judge of the zillah to which he is subordinate, who may thereupon refer the same for trial and decision to any other moonsiff of the district.

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#### ACT No. VII. OF 1843.

Passed by the Honourable the President of the Council of India in Council on the 28th of April 1843, with the Assent of the Right honourable the Governor-General of India.

AN ACT for abolishing the Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their Functions; for establishing Courts constituted according to Regulations I. and II., and Regulations VII. and VIII. of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the Civil Jurisdiction of such Courts.

I. It is hereby enacted, that the Governor in Council of Fort St. George be empowered by an Order in Council to abolish the provincial courts of appeal and circuit, and the civil and criminal zillah courts, now existing in that presidency, and to establish new zillah courts to perform the civil and criminal functions now performed by the said provincial courts, and to replace the existing civil and criminal zillah courts by courts constituted according to Regulations I. and II. of 1827, or Regulations VII. and VIII. of 1827, at his discretion.

II. And it is hereby enacted, that every zillah court established under this Act shall be superintended by one judge, who shall be styled Civil and Session Judge of the Zillah.

III. And it is hereby enacted, that the zillah courts established under this Act shall exercise, within the limits assigned to them respectively by the Order in Council by which they are constituted, the same civil jurisdiction as is now exercised by the provincial courts of appeal, except the original jurisdiction vested in those courts in suits for an amount or value less than 10,000 Company's rupees, and shall be vested with the same authority, and shall be subject to the same



ACTS of 1843. same rules and restrictions as such provincial courts of appeal, except as hereinafter mentioned.

IV. And it is hereby enacted, that the original jurisdiction vested in the provincial courts of appeal in suits for an amount or value less than 10,000 Company's rupees, shall be transferred to the subordinate zillah courts, constituted according to Regulations I. and VII. of 1827.

V. And it is hereby enacted, that section 7 Regulation VII. of 1827 be rescinded.

VI. And it is hereby enacted, that in every zillah in which there is a subordinate court constituted according to Regulation VII. of 1827, the zillah court shall take cognizance of the appeals which by section VIII. of that Regulation are reserved from the jurisdiction of such court.

VII. 1st. And it is hereby enacted, in modification of section 9, Regulation VII. of 1827, that in all cases in which a principal sudder ameen has occasion to call upon a collector, subordinate collector or assistant collector, or other European officer of government, to do any thing in any matter before his court, he shall transmit to such officer an extract from the proceedings of the court, containing a brief abstract of the case, and specifying what is required to be done by him, with a request that he will comply therewith, and that he will return an answer stating what he has done within a certain time, and such officer shall comply with the requisition so conveyed to him in the same manner as if it had been accompanied by a precept from the zillah judge.

2d. Provided, That if such officer does not comply with such requisition, the principal sudder ameen shall report the case to the zillah judge, who shall proceed thereon as if the requisition had been made by a precept from himself.

VIII. 1st. And it is hereby enacted, that appeals shall lie to the zillah court from all decrees or orders of subordinate civil courts constituted according to Regulations I. and VII. of 1827, and of sudder ameens and district moonsiffs in cases in which appeals are now allowable; but such appeals must be preferred within the period of 30 days, to be calculated as prescribed in the existing Regulations.

2d. Provided, that whenever a court constituted according to Regulation I. of 1827, or according to Regulation VII. of 1827, is established in any zillah at a place remote from the station of the zillah court, the Sudder Adawlut, with the sanction of the Governor in Council, may order appeals from the decisions and orders of district moonsiffs stationed within the limits assigned to such court, to be preferred to such court; but it shall be competent to the zillah judge, at his discretion, to call up to his own court, from time to time, appeals received by any such court, and to dispose of them himself.

3d. Provided also, that the judge of any zillah court may refer to any subordinate judge or principal sudder ameen in the zillah, any appeals from district moonsiffs which may be filed in the zillah court

4th. Provided also, that if any such appeal from a decision or order of a district moonsiff, which may have been, under this section, referred for decision, or preferred in the first instance, to a subordinate judge or principal sudder ameen, be dismissed without any decision being come to on its merits, it shall be competent to the party aggrieved by such order of dismissal to prefer a summary appeal from it to the judge of the zillah, and it shall be the duty of the said zillah judge to hold such proceeding on such summary appeal as he may consider proper; and, having satisfied himself that the order dismissing the appeal has been passed without sufficient cause being shown for such dismissal, it shall be competent for such zillah judge to issue his precept to the court by which the appeal may have been dismissed, requiring that the appeal shall be again admitted on the file, and a decision passed upon it after mature consideration of its merits.

IX. And it is hereby enacted, that appeals, regular and summary, from decisions and orders of the zillah courts, shall lie to the Sudder Adawlut, under the same rules and restrictions as are applicable to similar appeals to the Sudder Adawlut from the provincial courts of appeal.

X. 1st.

X. 1st. And it is hereby enacted, that it shall be competent to a single judge of the Sudder Adawlut to hold a sitting of court on all matters within the cognizance of that court, and to pass orders or judgments in conformity to the regulations, subject to the following provisions :—

2d. On the hearing of any appeal from the decision or order of any court of inferior jurisdiction, in any case, regular or miscellaneous, if a single judge of the Sudder Adawlut shall be of opinion that no sufficient ground has been shown to impugn the correctness or justness of such decision or order, it shall be competent to such single judge, without reference to the order of the file, to confirm the same without requiring the attendance of the opposite party, and with or without a revision of the whole proceedings, as the nature of the case may appear to require, and to communicate the order of confirmation through the court from whose judgment the appeal was made, to the opposite party, with a view to enable such party so take immediate measures for the execution of the decree. On the other hand, if a single judge shall be of opinion that the decision or order appealed against ought to be altered or reversed, as being manifestly unjust or at variance with some Regulation in force, or in opposition to the Hindoo or Mahomedan law or other law applicable to the case, or as having been passed without sufficient investigation of the merits, or as grounded on an assumption obviously erroneous, or irrelevant with reference to the points at issue, it shall likewise be competent to a single judge to issue an injunction pointing out the irregularity, illegality or other defect apparent in the proceedings, decision or order appealed against, and requiring that the court by which the same may have been held or passed shall revise the case, and proceed thereon in such manner as may appear conformable to justice and to the regulations.

3d. A single judge of the Sudder Adawlut, may exercise his discretion in calling for the proceedings of the lower courts, or such parts of them as may appear necessary, and may further order a report in English, or in the vernacular language commonly used in the court, as the occasion may render advisable, on any points requiring explanation, prior to passing a determination on the case or matter in appeal.

4th. It shall further be competent to a single judge to direct, that the execution of any judgment or order passed by an inferior court, in all cases in which that measure may appear to him expedient, may be stayed until a final decision has been passed thereon.

XI. And it is hereby enacted, that the provisions of clause 2 of the foregoing section, shall be applicable to the judges of zillah courts, and to subordinate judges and principal sudder ameens.

XII. And it is hereby enacted, that any provisions of the existing regulations which require inferior courts to furnish the Sudder Adawlut with translations of papers written in the vernacular languages of the country, which they may transmit to that court in appeals and other cases, be rescinded.

XIII. And it is hereby enacted, in modification of sections 13 and 14, Regulation V. of 1802, that all processes and orders, therein described, which may issue from the Sudder Adawlut, shall be directed to the zillah courts established under this Act.

XIV. And it is hereby enacted, that it shall be competent to the judges of the zillah courts to refer the execution of decrees of the Sudder Adawlut, and of their own courts, to the subordinate judges or principal sudder ameens of their zillahs respectively, who shall proceed therein under the rules prescribed in the general Regulations applicable to such cases : Provided that an appeal shall lie from any order passed by a subordinate judge or principal sudder ameen, under such reference to the zillah court in the first instance ; and secondly, a special appeal to the Sudder Adawlut.

XV. And it is hereby enacted, that all other processes issued by the Sudder Adawlut, and directed to the zillah court, or originating in the zillah court, shall be served under the orders of the zillah judge by the proper officers of the court.

XVI. And it is hereby enacted, in modification of section 6, Regulation III. 1833, that the power of suspending sudder ameens from office, thereby vested

ACTS of 1843.

in the zillah, assistant and native judges, shall for the future be invested in the judges of the zillah courts established under this Act.

XVII. 1st. And it is hereby enacted, that all parts of Regulations VI. and VII. 1816, in which the zillah judge is mentioned, shall be understood as applicable to the judges of the zillah courts established under this Act, excepting section 56, Regulation VI. 1816, which shall be applicable to the subordinate judges and principal sudder ameen, as extended by section 5, Regulation III. of 1833. And all parts of Regulation VI. of 1816, in which the provincial court is mentioned, shall be understood as applicable to the Sudder Adawlut.

2d. Provided, that district moonsiffs may be employed by subordinate judges and principal sudder ameen, as well as by judges of zillah courts, in the manner and for the purposes specified in sections 59 and 61, Regulation VI. 1816.

XVIII. And it is hereby enacted, that when a zillah judge sees reasons for calling up, under section 54, Regulation VI. 1816, any cause that may be depending before a district moonsiff, he may refer it for trial to the subordinate judge or principal sudder ameen, of the zillah, or to a sudder ameen or another district moonsiff.

XIX. And it is hereby enacted, that when a district moonsiff shall forward to a zillah judge under clause 2, section 3, Regulation I. 1829, a suit instituted in his court, in which he is directly or indirectly a party, or otherwise personally interested, the judge may refer it for trial either to a sudder ameen or another district moonsiff.

XX. And it is hereby enacted, that the judges of zillah courts may refer to the subordinate judges and principal sudder ameen, applications for the executions of decisions of district punchayets preferred under section 17, Regulation VII. 1816.

XXI. And it is hereby enacted, that it shall be competent to judges of zillah courts to pass orders of their own authority on complaints preferred under section 11, Regulation VII. 1816, according to clause 4 thereof.

XXII. And it is hereby enacted, that the zillah judge shall be competent to receive and pass orders of his own authority, on complaints preferred under section 27, Regulation VII. 1832.

XXIII. And it is hereby enacted, that civil actions and criminal prosecutions under clauses 1 and 2, section 8, Regulation VI. 1816, with respect to district moonsiffs; and as extended by section 13, Regulation VIII. 1816, with respect to sudder ameen, shall be brought before the zillah courts established under this Act.

XXIV. And it is hereby enacted, that section 3, Regulation VIII. 1816, be rescinded.

XXV. And it is hereby enacted, in modification of section 14, Regulation VIII. 1816, that sudder ameen shall have authority to order execution of the decisions passed by them, according to the rules for the execution of decrees applicable to the courts to which they are attached, and to issue all process relative to the causes and proceedings before them under their own official seal and signature, and to realize fines imposed by them without reference to any superior officer.

Criminal Jurisdiction.

XXVI. And it is hereby enacted, that the judges of the zillah courts established under this Act, shall exercise within the limits assigned to those courts respectively, the same criminal jurisdiction as is now exercised by the judges of the courts of circuit, and shall be vested with the same authority, and subject to the same rules and restrictions, as far as they are applicable and consistent with this Act.

XXVII. And it is hereby enacted, that the said judges shall hold permanent sessions in the said zillah courts for the trial of all persons accused of crimes and offences now cognizable by the courts of circuit who shall be committed for trial by the subordinate judges or principal sudder ameen of the zillahs respectively.

XXVIII. And

XXVIII. And it is hereby enacted, that section 2, Regulation XIII. 1832, be rescinded. ACTS of 1843.

XXIX. And it is hereby enacted, in modification of clauses 1 and 3, section 9, Regulation X. of 1816, that if upon a perusal of the depositions given before the magistrate, or any competent officer of police, it shall appear to the subordinate judge or principal sudder ameen before whom a prisoner is brought charged with a crime or misdemeanor subject to the jurisdiction of the judge of the zillah court of session, that there is evidence of the prisoner being concerned in the perpetration of the crime or misdemeanor with which he is charged, and if the deponents confirm their depositions on oath before him, it shall be competent to the subordinate judge or principal sudder ameen, without further investigation, to commit the prisoner to take his trial before the session judge.

XXX. And it is hereby enacted, that the session judge shall commence the trial immediately, and shall take the examination of the prosecutor and of the witnesses for the prosecution, and the defence of the prisoner, and the examinations of the witnesses for the defence; and if more witnesses have been previously summoned and are expected to attend, or if the session judge thinks it necessary after the commencement of the trial to call for further evidence, he shall adjourn the proceedings, permitting the prosecutor and witnesses to return to their houses, unless he shall see special cause to detain them, in order to their being confronted with the other witnesses whose attendance is expected.

XXXI. And it is hereby enacted, that, except in cases in which the session judge thinks proper to proceed as authorized in section 32 of this Act, the Mahomedan law officer attached to the zillah court shall sit with the session judge for the trial of persons charged with crimes now cognizable by courts of circuit, in like manner and subject to the like regulations as are now applicable to law officers sitting with the courts of circuit.

XXXII. 1st. And it is hereby enacted, that it shall be competent to session judges, in the trial of criminal cases, to avail themselves at their discretion of the assistance of respectable natives or other persons in either of the two following ways; viz.

By constituting two or more such persons assessors or members of the court, with a view to the advantages derivable from their observations, particularly in the examination of witnesses; the opinion of each of the assessors shall be given separately and discussed, and if any of the assessors, or the authority presiding in the court desire it, the opinions of the assessors shall be recorded in writing;

Or by employing them more nearly as a jury; they will then attend during the trial, will suggest, as it proceeds, such points of inquiry as occur to them (the court, if no objection exists, using every endeavour to procure the required information), and after consultation will deliver in their verdict; the mode of selecting the jurors, the number to be employed, and the manner in which their verdict shall be delivered, are left to the discretion of the judge who presides.

2d. Provided that the law officer may be one of the assessors or jury.

3d. Provided also, that the decision shall be passed by the judge according to his own opinion, whether he agrees with the assessors or jury or not, if the case be one which, under the existing regulations, it is competent to him to dispose of finally; but if he differs from the assessors or jury, his decision shall not be carried into effect unless confirmed by the Court of Fouzdaree Adawlut, to which the case shall be immediately referred.

XXXIII. And it is hereby enacted, that it shall be competent to a single judge of the Foujdaree Adawlut, on a revision of the proceedings held on any criminal trial by any court of inferior jurisdiction, to reverse or alter the sentence or order passed thereon, provided such reversal or alteration be in favour of the accused, whether for acquittal, mitigation of punishment or otherwise.

XXXIV. And it is hereby enacted, that if a single judge of the Foujdaree Adawlut, on a revision of the proceedings in a trial held by a session judge,

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concur in opinion with the session judge, whether for conviction or acquittal, it shall be competent to such single judge to pass a final sentence, except for capital punishment, which, as heretofore, shall in all cases require the concurrent opinion of two judges of the court.

XXXV. And it is hereby enacted, that it shall be competent to the Court of Foujdaree Adawlut, on a review of the abstract statements of prisoners punished without reference, to mitigate the sentence passed on any prisoner when such sentence may appear, on the session judge's own showing of the facts, manifestly illegal or too severe, and it shall not be necessary for the court to call for the proceedings in such cases, unless they shall see special reasons for so doing; it shall further be competent to the court in like manner to annul the sentence passed in any case when such sentence may be in opposition to any law or regulation in force, and to require the session judge to pass a new sentence according to law.

XXXVI. And it is hereby enacted, in modification of section 2, Regulation III. 1833, that the authority to overrule judgments passed by sudder ameens in criminal cases shall be vested in the session judges.

XXXVII. And it is hereby enacted, that section 24, Regulation X. 1816, clauses 2 and 3, section 4, Regulation II. 1822, clause 2, section 5, and clauses 2 and 4, section 8, Regulation VI, 1827, shall be applicable to session judges, instead of judges of circuit.

XXXVIII. And it is hereby enacted, that prosecutions against magistrates and their assistants under section 43, Regulation IX. 1816, shall be instituted in the zillah courts established under this Act.

XXXIX. 1st. And it is hereby enacted, in modification of section 3, Regulation XIII. 1832, that it shall be the duty of the session judge to bring to the notice of the Foujdaree Adawlut any gross misconduct of any native officer of police which may have come under his observation in a case investigated by himself, or which may have been reported to him by a subordinate judge or principal sudder ameen, and which appears to him to deserve the penalty of dismissal, and it shall be competent to the Foujdaree Adawlut to order the dismissal of such officer.

2d. Provided, that the session judge shall furnish a copy of his report upon the case to the magistrate, and the Foujdaree Adawlut shall not pass a final order upon it until the answer of the magistrate, which shall be addressed to that court, has been received and considered.

XL. And it is hereby enacted, that it shall be the duty of the sessions judge to bring to the notice of the magistrate any minor neglects or omissions, or transgressions of the subordinate officers of police which have come under his own observations, or have been reported to him by a subordinate judge or principal sudder ameen, and such notification shall be recorded in the periodical returns to the Foujdaree Adawlut.

XLI. And it is hereby enacted, that it shall be competent to the session judge to report to the Foujdaree Adawlut any neglect or delay on the part of the magistrate or the subordinate officers of the magistracy, by which the course of justice has been seriously impeded in cases before himself, or which have been reported to him by a subordinate judge or principal sudder ameen.

XLII. And it is hereby enacted, that it shall be competent to the session judges, subordinate judges and principal sudder ameens, to communicate directly with the district officers of police for the purpose of obtaining all the evidence that appears to be forthcoming in cases in which prisoners have been forwarded by them charged with crimes and misdemeanors, section 55, Regulation XI. 1816, notwithstanding.

XLIII. And it is hereby enacted, that, except as provided in section 47 of this Act, Europeans and Americans charged with offences not punishable by the magistrate, committed within the local jurisdiction of a principal sudder ameen, shall be sent for trial to the session judge, who shall proceed thereon in conformity with the rules applicable to his own court, or to courts constituted according to Regulation II. of 1827, as the case may require.

XLIV. And

**XLIV.** And it is hereby enacted, that in any zillah, in which the Governor in Council of Fort St. George deems it expedient to establish the zillah court, and the court or courts under subordinate judges or principal sudder ameen, at separate stations, it shall be competent to the said Governor in Council, by an Order in Council, to authorize the session judge to take cognizance of all criminal cases subject ordinarily to the jurisdiction of the subordinate courts, as well as cases subject to his own jurisdiction, which shall be sent to him by the magistrate or officers of police of such talooks as shall be therein indicated, and to dispose of such cases according to the rules applicable to them respectively.

**XLV.** And it is hereby enacted, that in any zillah in which the Governor in Council of Fort St. George deems it unnecessary to establish a subordinate civil and criminal court, constituted according to Regulations I. and II. or Regulations VII. and VIII. 1827, it shall be competent to the said Governor in Council, by an Order in Council, to authorize the civil and session judge to exercise the civil and criminal jurisdiction assigned to such courts, besides the proper civil and criminal jurisdiction of the zillah court, and to take cognizance immediately of criminal cases, within his proper jurisdiction as session judge, as they are sent up by the police and magistracy.

**XLVI.** And it is hereby enacted, that when the said Governor in Council deems it proper to establish in any such zillah, a court under a sudder ameen, at a detached station, it shall be competent to the Governor in Council to authorize the sudder ameen to receive and dispose of civil suits arising in the portion of the zillah over which jurisdiction shall be assigned to him, without the intervention of the zillah judge, under the limitation as to amount or value prescribed by the existing regulations; and also to receive and dispose of criminal cases sent to him by the police and magistracy of the division subject to his jurisdiction, for which the punishment prescribed shall not exceed the limitation specified in section 7, Regulation X. of 1816.

**XLVII.** And it is hereby enacted, that whenever the Governor in Council of Fort St. George shall establish a court under a European principal sudder ameen at Cochin, such principal sudder ameen shall exercise within the jurisdiction assigned to him all the powers of a criminal court constituted according to Regulation II. of 1827, and also all the powers of a joint magistrate.

**XLVIII.** And it is hereby enacted, that when the subordinate criminal court at the station of a zillah court is constituted according to Regulation VIII. of 1827, the zillah gaol shall be under the charge of the session judge.

**XLIX.** And it is hereby enacted, that when the subordinate criminal court at the station of the zillah court is constituted according to Regulation II. of 1827, the zillah gaol shall be under the charge of the judge of the subordinate criminal court, and the session judge shall be vested with authority to visit the gaol, and to pass orders according to section 32, Regulation VII. of 1802, and section 7, Regulation X. 1832.

**L.** And it is hereby enacted, that the subordinate officers and vakeels, who shall be appointed to the zillah courts established under this Act, shall be subject to the same rules as are applicable to the subordinate officers and vakeels of the provincial courts of appeal.

**LI.** And it is hereby enacted, that the Governor in Council of Fort St. George shall direct what law officers shall be appointed to the zillah courts established under this Act, and shall order the manner of their appointment, and such officers shall be subject to the same rules as the law officers of the provincial courts of appeal.

**LII.** And it is hereby enacted, that the Governor in Council of Fort. St. George may appoint an assistant judge to any zillah court, to whom the judge shall have authority to refer any appeals which may be depending before him, excepting appeals from the subordinate courts constituted according to Regulation I. or Regulation VII. of 1827, and such assistant judge shall be empowered to try and dispose of cases so referred to him under the rules applicable to the judge.

**LIII.** And it is hereby enacted, that it shall be lawful for the Governor-General in Council, by an order in Council, to authorize the Governor in Council

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of Fort St. George at any time to change the stations of zillah courts and the limits of their local jurisdiction, and to abolish any of the zillah courts which shall be first established under this Act, and to establish new zillah courts in any parts of the Presidency of Fort St. George.

LIV. 1st. And whereas it is deemed expedient to extend the powers vested in magistrates by Regulation IX. of 1816 ;

It is hereby enacted, that the magistrates be authorized to exercise the powers vested in criminal judges by section 7, Regulation X. of 1816, concurrently with the subordinate criminal courts :

2d. Provided, that in all cases in which magistrates shall exercise the additional powers hereby vested in them, the form of procedure shall be the same as is required to be observed in the subordinate criminal courts in similar cases, and the same record shall be kept of the trial.

LV. And it is hereby enacted, that in every case in which a magistrate shall exercise such additional powers, an appeal from his sentence or order may be preferred to the session judge within one month, and it shall be competent to the session judge, upon such an appeal, to annul or alter the sentence or order, provided that he shall not increase the punishment awarded by the magistrate.

LVI. And it is hereby enacted, that all criminal cases which may be depending at the time of the abolition of the zillah and provincial courts, shall be disposed of by the courts acquiring jurisdiction over the same in virtue of this Act ; provided, however, that prisoners who may have been committed for trial by the session judge, in his former office of criminal judge or joint criminal judge, and who may object to be tried by that officer, shall be tried by the session judge of another court, or by the special commissioner of the division, or by an officer specially appointed by Government.

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ACT No. VIII. OF 1843.

Passed by the Honourable the President of the Council of India in Council on the 28th of April 1843, with the Assent of the Right Honourable the Governor-General of India.

AN ACT for disposing of the original Suits and Appeals depending before the Provincial Courts of Appeal in the Presidency of Fort St. George, the abolition of which is authorized by Act No. VII. of 1843.

Whereas it is necessary that provision should be made for the disposal of original suits and appeals depending before the provincial courts of appeal in the Presidency of Fort St. George, the abolition of which is authorized by Act No. VII. of 1843 ;

I. It is hereby enacted, that the Governor in Council of Fort St. George be empowered to appoint a single judge to hold a court in place of each of the said provincial courts at the station of such provincial court, with a special commission to dispose of all original suits and appeals which may be depending before such court, on the date on which the said Governor in Council shall order the functions of the provincial courts to cease.

II. And it is hereby enacted, that the judges who shall be appointed for this purpose shall be styled respectively ; viz., Special Commissioner for disposing of the causes depending before the late Provincial Court for the (Northern, Southern, Centre, or Western) Division.

III. And it is hereby enacted, that every special commissioner so appointed, previously to entering upon the execution of the duties of his office, shall take and subscribe the oath prescribed to be taken by judges of the provincial courts of appeal, before any person who shall be commissioned by the Governor in Council of Fort St. George to administer it.

IV. And



IV. And it is hereby enacted, that the special commissioners shall transfer the original suits on the files of provincial courts, in which no proceedings have been held beyond the filing of the pleadings, and exhibits to the zillah courts within whose jurisdiction they would fall respectively if they were commenced *de novo*, and such suits shall be tried and decided by the judges of such zillah courts subject to appeal to the Sudder Adawlut.

V. 1st. And it is hereby enacted, that all other original suits, and all appeals on the file of the provincial courts, shall be tried and decided by the special commissioners, who shall have the same power as heretofore have been vested in two or more judges of such courts sitting together, subject to the same rules and restrictions, and under the same provisions for appeals to the Sudder Adawlut.

2d. Provided, that in a case of special appeal from a lower court, if a special commissioner differs from the court from whose decision the appeal is preferred, he shall not pass a final judgment reversing the decision, but shall record his opinion and transmit the record of the case to the Sudder Adawlut, to be laid before a single judge of that court, whose judgment, confirming or reversing the decree appealed against, shall be final.

VI. And it is hereby enacted, that the execution of decrees of the special commissioners, and also of the provincial courts for which process was not issued previously to their abolition, shall be committed to the judge of the zillah in which the suit was instituted, or if the suit was instituted in the provincial court, to the judge to whose jurisdiction the suit would fall if it were commenced *de novo*. The records of the cases shall be transmitted, together with the decrees, to the respective zillah judges, who shall proceed in the execution of the decrees in the same manner as if they were passed by themselves, and appeals from their orders shall lie to the Sudder Adawlut.

VII. And it is hereby enacted, that the judges of the zillah courts shall proceed in like manner to complete the execution of decrees of the provincial courts under process previously issued, subject to appeal to the Sudder Adawlut.

VIII. And it is hereby enacted, that from decisions passed by zillah judges, assistant judges, and principal sudder ameens, previously to the abolition of the provincial courts, in cases appealable to those courts, in which the time allowed for appealing shall not have expired at the date of their abolition, an appeal shall lie to the Sudder Adawlut, provided that the petition of appeal be presented to the Sudder Adawlut or to the civil judge of the zillah in which the original suit was decided, within one month from the expiration of the period within which it ought to have been presented, under the rules applicable to appeals to the provincial courts.

IX. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George to authorize the appointment of ministerial officers and vakeels of the courts of the special commissioners, who shall be subject to the same rules as are applicable to the ministerial officers and vakeels of the provincial courts.

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#### ACT No. IX. of 1843.

Passed by the Honourable the President of the Council of India in Council on the 14th June 1843, with the Assent of the Right Honourable the Governor-General of India.

For the Incorporation of a Bank at Madras.

Whereas the Honourable Court of Directors of the East India Company, by and with the approbation of the Board of Commissioners for the Affairs of India, has directed the abolition of the present Government Bank at Madras, and, in lieu thereof, has sanctioned the establishment of a Bank at Madras on the principles hereinafter set forth, and has required the Government of India to pass an Act of Incorporation for the same;



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I. It is therefore hereby enacted, that from the 1st day of July next ensuing, in the year of our Lord 1843, the persons whose names are included in the Schedule hereunto annexed, having severally subscribed and signed their acceptance of the terms of incorporation specified in this Act, and with the Government of Madras on the part of the East India Company, having paid into the Government treasury the amount of capital stock subscribed by them respectively, and taken receipts for the same from the sub-treasurer to the government of Fort St. George, shall, together with the Governor in Council for the time being of the Presidency of Madras, be a corporation body, corporate and politic, by name of the Bank of Madras, with perpetual succession to them and their successors, as proprietors for the time being of the said bank, as hereinafter mentioned and provided, and shall possess and enjoy all the rights, privileges, and immunities incident by law to a corporation aggregate.

Provided, however, that it shall be lawful to the Governor-General of India in Council, at any time before the 1st of September next, to rectify any errors in the Schedule of the said proprietors, by notice in the official gazettes of Calcutta and Madras, so that no alteration be made in the principles upon which such Schedule has been framed.

II. And it is hereby declared and provided, that if any of the persons whose names are in the said Schedule shall have failed to make good their subscriptions on or before the 1st day of May last past, the shares to which such names are attached were claimable, and might be taken by the persons who, having made applications for shares which were received after the prescribed amount of capital had been taken and subscribed for by the parties in the said Schedule, had been permitted to have their said applications registered as received; and the shares which shall have so lapsed, having been tendered to such applicants in the order of such registry, according to the list given in to the Governor in Council at Fort St. George, shall be and are the property of such persons, provided they shall have, in the manner heretofore mentioned, paid up their subscriptions on or before the 20th day of May last past. And in the event of there having remained any unpaid shares, after the parties whose names had been so registered had thus had the option of completing the payments due on such shares, then such remaining unpaid shares are declared to have been at the disposal of a general meeting of the proprietors convened for that purpose: and it is hereby enacted, that the persons who shall have become the proprietors of the lapsed shares in the manner above provided, or under an appropriation made at such general meeting of proprietors by payment of the amount subscribed, shall be considered to belong, and shall to all intents and purposes belong to the corporation, body corporate and politic, by name of the Bank of Madras, and shall possess and enjoy all the rights, privileges and immunities, the same as the persons according to the original Schedule, who shall have paid up their subscriptions on or before the 1st day of May last past. And it is hereby declared and required that, as soon after the promulgation of this Act as may be practicable, the Governor in Council at Fort St. George shall publish in the official Gazette of that Presidency a Schedule of the proprietors of the Bank of Madras, as incorporated under the provisions of this Act, and that the same shall be transmitted to be re-published in the official Gazette of Calcutta.

III. And it is hereby enacted, that the capital stock of the Bank of Madras shall be thirty lakhs of rupees, whereof three lakhs shall be the property of the Governor in Council of Madras, for the time being, on behalf of the East India Company, and the persons whose names are in the Schedule hereunto annexed, or in any Schedule corrected in the manner provided for in the 1st section of this Act, or whose names shall be in the Schedule published by order of the Governor in Council, at Fort St. George in the official Gazette of that Presidency as required in section 2 of this Act, shall be proprietors of the shares of the said capital stock set against their names respectively.

IV. And it is hereby enacted, That it shall be in the power of the Governor-General of India in Council, from time to time, by an order duly published in the official Gazettes of Calcutta and of Madras, to authorize the said capital stock to be increased, and to make such order and direction for the opening of subscriptions towards such increase of capital as to him may seem fit, giving due notice thereof to the proprietors of the said bank for the time being, and allowing to them

them a period of not less than twelve months to fill up such subscription themselves, and likewise to prescribe in what manner and form the proprietors shall subscribe and pay into the said bank the proportion of new stock to which they may respectively be entitled, and also to make such order and direction as to him the said Governor-General in Council may seem fit for the disposal of the amount of new stock that may not be subscribed for, and paid up by the proprietors in the manner and form that may be so prescribed.

V. And it is hereby enacted, that the capital stock of the bank of Madras shall be divided into shares of one thousand rupees each, which shall be numbered accordingly, and three hundred of the said shares, numbered from No. 1 to 300 shall be the property of the Governor in Council of Madras, for the time being, on behalf of the East India Company, and the remainder shall be the property of the proprietors who shall have paid up the same, and no separate interest or share in the stock of the said bank, of less amount than 1,000 rupees, shall be created or held by any proprietors, and if at any time the capital of the said bank shall be increased, the new stock added thereto shall in like manner be divided into shares of 1,000 rupees each, and no proprietor shall be entitled to claim a share of such new stock of less amount than 1,000 rupees.

VI. And it is hereby enacted, that on the said 1st day of July 1843, or on some early day after that date, provided the subscriptions have been paid up as above prescribed, the Governor in Council of Madras shall notify in the official gazette of that Presidency, that the Bank of Madras, being incorporated as above provided, shall from the date of such notification be opened for the transaction of all manner of business authorized by this Act, and the said bank shall and may sue and be sued by its corporate name, and shall and may use such common seal as the directors of the said bank shall from time to time appoint, and shall be competent to acquire and hold either absolutely or conditionally, for a term, or in perpetuity, any description of property whatever, and to transfer and convey the same.

VII. And it is hereby enacted, that immediately on the opening of the said Bank of Madras, the business of the present Government Bank of Madras shall cease, and it shall proceed to wind up its affairs as soon as possible, and all cash notes of the Government Bank of Madras which shall be then outstanding shall be payable thenceforth at the Bank of Madras, which shall pay them on being verified by such officers as the Governor in Council of Fort St. George may appoint for the purpose, on presentment, as if they had been issued by the Bank of Madras.

VIII. And it is hereby enacted, that on Monday of every week, so long as there are any notes of the Government Bank outstanding, the Bank of Madras shall cause to be made up a statement of the notes of the Government Bank paid by them in the course of the preceding week, and transmit the same to the Governor in Council of Madras with the Notes, who shall thereupon cause the amount, with all reasonable expedition, to be repaid to the Bank of Madras.

IX. And it is hereby enacted, that after the delivery by the sub-treasurer at Madras, to whom all subscriptions on account of the capital of this bank will have been paid, as above provided, of the amount of capital stock to the directors of the bank, the receipt which may be granted by the sub-treasurer to the subscribers respectively shall be cancelled, and a certificate signed by three directors of the bank of Madras shall be delivered to each proprietor, and any person who is a proprietor of more than one share of the capital stock, may at his option demand a certificate for each of his shares, or one certificate for all his shares, or several certificates, each of which may be for any number of his shares.

X. And it is hereby enacted, that no proprietor shall be allowed to increase his share in the capital stock of the said bank beyond the amount of 50,000 rupees, excepting on occasion of any increase being made to the capital stock of the said bank under the authority of the Governor-General in Council, in the manner prescribed in section 4 of this Act, in which case any proprietor holding stock to the full amount of 50,000 rupees, shall, notwithstanding, be entitled to subscribe to the increased capital stock in a rateable proportion; and excepting

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XI. And it is hereby enacted, that the said share or shares of the capital stock of the said bank shall be of the nature of personal estate of the proprietors thereof respectively, and that the same shall be transferable by endorsement to be made on the certificates thereof respectively, under the hand of the proprietor or proprietors, or his or their attorney duly authorized, which endorsement shall specify the name of the person or persons to whom the said transfer shall be made, but no such endorsement shall be effectual to transfer any such share or shares, until such endorsement shall have been registered at the bank of Madras, and such registration shall have been noted on such endorsement under the hand of an officer appointed for that purpose by the directors of the said bank.

XII. And it is hereby enacted, that the said corporate body of the Bank of Madras shall consist and be composed of the registered proprietors for the time being of the said shares of the capital stock of the said bank, and of no other person or persons whatsoever.

XIII. And it is hereby enacted, that the business of the said bank shall be managed by nine directors, of whom three shall be appointed and be removable by the Governor in Council of Madras, and the remaining six shall be elected by the general meeting of the proprietors of the said bank, and shall be removable by vote of the majority of a general meeting of the said proprietors.

XIV. And it is hereby enacted, that the first directors of the said bank shall be such three persons as may be appointed by the Governor in Council of Madras to be directors of the bank, together with six persons of those whose names are inserted in the Schedule of proprietors published in the official Gazette of Fort St. George, in the manner prescribed by section 2 of this Act, and who, being entitled to not less than six shares, or 6,000 rupees, of the capital stock of the said bank, shall be elected at a general meeting of the persons whose names are inserted in the said Schedule, to be held at such time and place as the Governor in Council of Madras may fix by public notification in the official Gazette of that Presidency, and the election shall be made by the persons who, according to the said schedule of proprietors, may be entitled to shares of the capital stock of the bank, and the said persons shall vote at such election in person or by proxy, according to the quantity of stock respectively held by them, and the directors so appointed shall appoint officers, and take all necessary steps for opening the bank when this Act shall take effect for its incorporation; and the rotation amongst the six directors first appointed under the next preceding section, shall be established according to the number of votes; the two directors elected by the fewest votes first vacating, and the next two in the year following, and so in succession in the third year.

XV. And it is hereby enacted, that two of the six directors elected as provided in section 14, and to be elected by the proprietors, shall in rotation go out of office on the second Monday in the month of December in every year, on which day in every year a general meeting of proprietors shall be held for the election of two directors in their stead; but no director going out by rotation as aforesaid shall be re-elected at the election which takes place thereupon, though he shall be eligible for a future election.

XVI. And it is hereby enacted, that in case of the death, resignation or absence from Madras for more than three months, or disqualification under section 17, or removal as aforesaid of any director elected as provided in section 14, or to be elected by the proprietors after the incorporation of the Bank of Madras, the directors shall call a general meeting of the proprietors, to be held within 15 days of the day of notice, for the purpose of choosing a successor, and such successor shall come into the place, in rotation above mentioned, of the late director.

XVII. And it is hereby enacted, that no person shall be capable of serving as a director by election of the proprietors who shall not be proprietor in his own

own right unencumbered of six shares, or 6,000 rupees, of the capital stock of the Bank of Madras, or who shall be a director of any other bank issuing notes payable on demand within the town or suburbs of Madras.

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XVIII. And it is hereby enacted, that at a general meeting of the proprietors, every election and other matter in question shall be decided by a majority of votes, and that no person shall be allowed to vote at any such meeting in respect of any share of the said capital stock acquired by transfer, or purchase, or otherwise than by act of law, unless such transfer shall have been completed six months at the least before the time of tendering such vote.

XIX. And it is hereby enacted, that at all such general meetings the proprietors shall vote according to the following scale :

The Proprietors of

2 shares shall be entitled to	-	-	-	-	1 vote.
6 ditto	-	-	-	-	2 „
12 ditto	-	-	-	-	3 „
25 ditto	-	-	-	-	4 „

and no proprietor shall be entitled to more than four votes.

XX. And it is hereby enacted, that it shall be lawful for the Governor-in-Council of Madras to give a proxy in writing, signed by one of the secretaries to Government, to any person whom the Governor of Madras may appoint to attend any general meeting of the proprietors, and that the holder of such proxy shall be entitled to give four votes upon all matters or questions that may be submitted to such meeting, except upon the election or removal of such directors as are elected by the said proprietors.

XXI. And it is hereby enacted, that any proprietor or proprietors entitled to vote at any general meeting may give a proxy in writing, either general or special, under his, her or their hand, or the hand of his, her, or their attorney duly authorized, to any other proprietor, and that such proxy shall be produced at the time of voting, and that such proxy shall entitle the person to whom it is given, to vote on such matter or matters as shall be authorized by the tenor of such proxy.

XXII. And it is hereby enacted, that at the first meeting of the directors after their election, in every year, they shall choose a president from among themselves, and if the office of president shall become vacant they shall at their next meeting choose a successor for the remainder of the current year ; and that during any vacancy, or in the absence of the president, the senior director shall be vice-president for the time being, and that such president, or vice-president, shall have the casting vote in all cases of an equal division of votes at meetings, either of directors or proprietors.

XXIII. And it is hereby enacted, that the presence of at least three directors shall be necessary to form a board for the transaction of business, and the said directors shall establish a weekly rotation among themselves, so that not less than three directors may attend every meeting of directors, provided always that nothing herein contained shall be held to preclude any director from attending any meeting of directors.

XXIV. And it is hereby enacted, that all accounts of the said bank, and all instruments not under seal, whereby the said bank can in any manner be bound, except the cash notes of the said bank, shall be signed by three directors, and shall be of no validity unless so signed, and that the seal of the said bank shall not be affixed to any instrument except in the presence of three directors, who shall sign their names on the instrument in token of their presence, and that such signing shall be independent of the signing of any person who may sign the instrument as a witness, and that unless so signed by three directors such instrument shall be of no validity.

XXV. And it is hereby enacted, that the said directors shall have power to appoint such officers as may be necessary to conduct the business of the said bank, and to remove any officer of the said bank, and to fix the salaries of such officers, provided that the whole expense of the establishment of the said bank

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shall not, in any one year, exceed 50,000 rupees, without previous authority from the general meeting of the proprietors.

XXVI. And it is hereby enacted, that no person who shall hold the office of secretary, treasurer, head accountant, or head shroff of the Bank of Madras, shall engage in any other commercial business, either on his own account, or as agent for any other person or persons, or act as a broker for the sale or purchase of government securities, and that every person appointed to any one or more of the said offices, shall give security to the directors for the faithful discharge of his duty in the sum of 50,000 rupees.

XXVII. And it is hereby enacted, that the said Bank of Madras shall not be engaged in any kind of business, except the kinds of business hereafter specified ; (that is to say)

- 1st. The discounting of negotiable securities.
- 2d. The keeping of cash accounts, including the realization of dividends and interest on Government securities to the credit of constituents of the bank.
- 3d. Buying and selling of bills of exchange payable in India.
- 4th. The lending of money on short loans.
- 5th. The buying and selling of bullions.
- 6th. The receiving of deposits.
- 7th. The issuing and circulating of cash notes and bank post-bills.
- 8th. The selling of property or securities deposited in the bank as security for loans and not redeemed, or of property or securities recovered by the bank in satisfaction of debts and claims.

XXVIII. And it is hereby enacted, that the directors of the said bank shall discount no negotiable security, and make no loan, unless the amount of cash in possession of the said bank, and immediately available, shall be equal to at least one-fourth of all the claims against the said bank outstanding for the time being, and payable on demand.

XXIX. And it is hereby enacted, that the directors of the said Bank of Madras shall not discount any negotiable securities which shall have a longer period to run than three months, or lend any money for a longer period than three months, and that they shall make no loan or advance on any bank, share, or certificate of shares, nor on mortgage, or in any other manner on the security of any lands, houses or immoveable property; nor on any negotiable security of any individual or partnership firm, which shall not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership, nor be in advance at one and the same time, to any individual or partnership firm, either by way of discount, loan, or in any other manner (saving by loans upon the deposit of government securities, or goods not perishable as hereinafter mentioned) beyond the amount of three lakhs of company's rupees : provided always, that the advances upon bills of exchange accepted by the government, or upon other government obligations, shall not be considered as an advance within the meaning of this restriction.

XXX. And it is hereby enacted, that the directors of the said bank shall make no loan other than such loans as are described in the clause next preceding except on deposit of public securities in the full amount of the loan, and which public securities shall be so indorsed or otherwise transferred as to put them at the absolute disposal of the said Bank of Madras, or on deposit of goods not of a perishable nature, and of an estimated value exceeding the amount of the loan by at least one-fourth.

XXXI. And it is hereby enacted, that the said bank shall not be at any time in advance to the government more than seven lakhs and a-half of company's rupees ; provided always, that the holding of government securities, or of bills of exchange drawn upon the government, or of other government acceptances or obligations derived to the said bank from individuals, and not overdue, or subscribed and paid for by the bank, shall not be construed as being in advance to the government within the meaning of this clause.

XXXII. And

XXXII. And it is hereby enacted, that the directors of the said Bank of Madras shall not suffer any person or persons, or body corporate, keeping cash with the said Bank of Madras, to overdraw his, her or their account.

XXXIII. And it is hereby enacted, that the said Bank of Madras may issue promissory notes payable either on demand, or at a date not exceeding 30 days after sight, which notes shall and may be signed on behalf of the said bank by such person as the directors of the said bank may appoint or authorize in that behalf; provided always, that the total amount of such notes in circulation at any one time shall not exceed one crore of rupees, and provided also, that no such note shall be for a smaller amount than ten rupees.

XXXIV. And it is hereby enacted, that it shall not be lawful for the said bank to make, issue or negotiate any note, bill or other instrument containing any promise, undertaking or order for the payment of money elsewhere than within the limits of India.

XXXV. And it is hereby enacted, that it shall be lawful for the directors of the said Bank of Madras to receive in deposit goods not of a perishable kind, and to contract for the safe keeping of the same.

XXXVI. And it is hereby enacted, that the directors of the said bank shall cause the books of the said bank to be balanced on the 30th day of June and the 31st day of December in every year, and that a statement of the balance on every such day signed by a majority of the said directors, shall be forthwith transmitted to one of the secretaries to the Governor in Council of Madras, and that the Governor in Council of Madras shall at all times be entitled to require of the said directors any information touching the affairs of the said bank, and the production of any documents of the said bank, and that the said directors shall comply with every such requisition.

XXXVII. And it is hereby enacted, that an account of the profits of the said bank shall be taken half-yearly, on the 1st day of January and the 1st day of July in every year, and that a dividend thereof shall be made so soon thereafter as conveniently may be, and that the amount of such dividend shall be determined by the directors of the said bank on the ground of the actual profits made by the said bank during the six calendar months preceding the day up to which such half-yearly account shall be taken; provided that such reasonable expenses as have been incurred in procuring this Act of Incorporation, shall, upon being audited and admitted by the said directors, be paid out of the funds of the bank as soon as it is opened for business, and that the amount so paid shall be defrayed out of the future profits of the bank, at the discretion of the directors, and provided that the said directors, subject to the control and sanction of the proprietors at the general meetings, shall have power, when they see fit, to set apart from such profits a sum not exceeding five per cent. on the capital stock of the bank as a reserve against contingencies.

XXXVIII. And it is hereby enacted, that on the first Monday of the month of March in every year, a general meeting of the proprietors of the capital stock of the said bank shall be held, at which the directors of the said bank shall submit to the said proprietors a statement of the affairs of the said bank, made up to the preceding 31st of December, and such general meeting shall be competent to pass resolutions, and frame rules and directions relative to the affairs and conduct of the said bank, which shall be binding on the directors and officers of the bank, and on the proprietors thereof, until rescinded or modified respectively by any subsequent general meeting.

XXXIX. And it is hereby enacted, that any three of the said directors of the said bank, or any ten proprietors of the capital stock of the said bank, may at any time convene a general meeting of the proprietors, upon giving fifteen days' previous notice of such meeting, and of the purpose or purposes for which the same shall be convened, as well to the directors of the said bank for the time being, as also by public advertisement in the Official Gazette of Madras. And any general meeting so convened shall have the same powers and authorities as prescribed in the preceding section of this Act, for the annual general meeting to be held in the month of March.

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XL. And it is hereby enacted, that it shall be lawful for the Bank of Madras, with the sanction of the Governor in Council of Madras, and with the approbation of the Court of Directors of the East India Company, to establish branch banks at such places, and under such rules and restrictions as shall be determined by the proprietors at their general meetings: Provided, however, that such branch banks, when so established, besides being subject to the rules and restrictions that may be imposed by the proprietors, and to the control and orders of the directors of the Bank of Madras, shall be bound by the same rules as to the description of business in which they are to engage, and the manner of conducting such business, and likewise in respect to the issue of notes payable on demand, and the retention of cash to meet the same, and in all transactions and matters herein above referred to, as are prescribed for the Bank of Madras by this Act.

XLI. And it is further enacted, that if any of the proprietors shall become indebted to the said bank, it shall be lawful for the said bank to withhold payment of the dividends on the share or shares of such proprietor registered as his, or her own property, and not as held in trust, or as executor or administrator, until payment of such debt, and to apply such dividends towards payment thereof, and that after demand and default of payment, and notice in that behalf given, either to such proprietor or his or her constituted agent, or by public advertisement in the official Gazette, it shall be lawful for the said bank to refuse registration of the transfer of any such share or shares of such proprietor, until payment of such debt; and if the same shall remain unpaid for the space of six months after such notice, to advertise for public sale, and to sell such share or shares, or so many as may be necessary, and to apply the proceeds thereof towards payment of such debt, with interest at the rate of six per cent. per annum, paying over the surplus, if any, to such proprietor, or his or her lawful representative.

XLII. And it is further enacted, that the said bank shall continue as hereby constituted until the 1st day of July, which will be in the year of our Lord 1850, and shall thereafter continue in like manner until duly dissolved or modified; provided, however, that after the said 1st day of July 1850, the said bank shall not, except upon the application or by the consent of the proprietors of the said bank be dissolved, or anywise modified without previous notice of twelve months at the least being given by the Governor-General of India in Council, or by the Government of the Presidency of Fort Saint George, to the directors of the said bank for the time being, of such intended dissolution or modification: Provided also, that in the event of the said bank at any time suspending any cash payments, the benefits granted to the said bank by the present Act of Incorporation shall be thenceforth forfeited.

## SCHEDULE.

NAMES.	Number of Shares of 1000 Rs. each.	Amount in Rupees.
Joseph Pugh - - - - -	Forty - 40	40,000
David Pugh - - - - -	Twenty - 20	20,000
John Utlay Ellis - - - - -	Twenty - 20	20,000
Joseph Goolden - - - - -	Six - 6	6,000
John Pugh - - - - -	Six - 6	6,000
Major George Hutchinson, 24th Regiment Native Infantry - -	Twelve - 12	12,000
Surgeon Ramsay Sladen - - - - -	Twenty - 20	20,000
Peter John Phillipsz - - - - -	Twelve - 12	12,000
Nathaniel Brindley Acworth - - - - -	Fifty - 50	50,000
John Line - - - - -	Twenty - 20	20,000
James Thomson - - - - -	Twenty - 20	20,000
Surgeon Robert Baikie, M.D. - - - - -	Ten - 10	10,000
Lieut.-Col. Frederick Larkins Doveton, 5th Regiment Light Cavalry	Ten - 10	10,000
William Haylett - - - - -	Twenty - 20	20,000
James Cuddy - - - - -	Five - 5	5,000
James Scott - - - - -	Twenty - 20	20,000
John Binny Key - - - - -	Twenty - 20	20,000
William Scott Binny - - - - -	Ten - 10	10,000
Henry V. Conolly - - - - -	Ten - 10	10,000



NAMES.	Number of Shares of 1,000 Rs. each.	Amount in Rupees.
Surgeon John Wylie, M.D.	Twelve - 12	12,000
Donald Mackenzie	Twenty - 20	20,000
William Liddell	Ten - 10	10,000
Colin C. Dunhill	Four - 4	4,000
Mathew Dunhill	Four - 4	4,000
Mark Dunhill	Four - 4	4,000
Reverend George William Mahon	Twenty - 20	20,000
John Carnac Morris	Fifty - 50	50,000
Major James Macdonald, 45th Regiment Native Infantry	Fifteen - 15	15,000
James Ouchterlony	Forty - 40	40,000
Lieut.-Col. Alexander Tulloch, c. B.	Twenty-five - 25	25,000
John Murray, M.D.	Ten - 10	10,000
Andrew Barrie	Ten - 10	10,000
Edmund Marsden	One - 1	1,000
Chocapah Chetty	Four - 4	4,000
Surgeon George Harding	Twenty - 20	20,000
John Dent	Ten - 10	10,000
Robert Grant	Forty - 40	40,000
Claud Currie	Twenty - 20	20,000
Surgeon James Smith	Five - 5	5,000
George Gahan	Twenty - 20	20,000
Thomas Kennedy Mac Fadzen	Ten - 10	10,000
Eleazar Seth Sam	Six - 6	6,000
Andrew Seth Sam	Sixteen - 16	16,000
Varden Seth Sam	Six - 6	6,000
Alexander Maclean	Fifteen - 15	15,000
Captain Isaac Campbell Coffin, 12th Regiment Native Infantry	One - 1	1,000
Robert Clerk	Fifteen - 15	15,000
William Hamilton Hart	Twelve - 12	12,000
James Webster	Ten - 10	10,000
William Scott	Five - 5	5,000
John Scott	Five - 5	5,000
Peter Bell	Five - 5	5,000
Thomas Arthur Chamier	Twelve - 12	12,000
Michael M'Dowell	Twelve - 12	12,000
Lieut. Arthur Frederick Beavan, 39th Regiment Native Infantry	Five - 5	5,000
Captain James Victor Hughes, 39th Regiment Native Infantry	Seven - 7	7,000
Edward Penton Thompson	Thirty-five - 35	35,000
G. P. Thompson	Thirty-five - 35	35,000
Archibald Francis Arbuthnot	Twelve - 12	12,000
William M'Taggart	Twelve - 12	12,000
Alexander Mackenzie	Twelve - 12	12,000
James Liddell	Ten - 10	10,000
Major General Robert Brice Fearon, c.B.	Six - 6	6,000
Joseph Bainbridge	Forty - 40	40,000
R. P. Wheeler	Five - 5	5,000
William Wheeler	Five - 5	5,000
Lieut. Herbert William Wood, 4th Regiment Native Infantry	Ten - 10	10,000
Charles William Eaton	Twelve - 12	12,000
Robert Stephenson	Five - 5	5,000
Peter Carstairs	Five - 5	5,000
The honourable John Sullivan	Forty - 40	40,000
Colla Vencatachella Chetty	Twelve - 12	12,000
Alexander Inglis Cherry	Twelve - 12	12,000
Alexander Fairlie Bruce	Twenty - 20	20,000
Nicholas Barambeg	One - 1	1,000
Captain James Smith, 1st N. V. Battalion	One - 1	1,000
Surgeon Thomas O'Neill	Ten - 10	10,000
Lieut.-Col. Scudamore Winde Steel	Twenty - 20	20,000
Lieut.-Col. John Ogilvie	Five - 5	5,000
Robert Franck	Five - 5	5,000
James Minchin	Twenty - 20	20,000
Lieut.-Col. George Sandys, 8d Regiment Light Cavalry	Twenty - 20	20,000
Henry Dickenson	Twenty - 20	20,000
William Johnson	Twenty - 20	20,000
Ruthnal Veerasawmy Naidoo	Four - 4	4,000
Thomas Parker Waller	Twelve - 12	12,000
John Kickwick	Four - 4	4,000
Charles Kennett	One - 1	1,000
John Jordan	Two - 2	2,000
The Right honourable John Lord Elphinstone	Fifty - 50	50,000
Thomas Moore Lane, Surgeon	Twelve - 12	12,000
Joseph Browning Pharaoh	Two - 2	2,000
John Goldingham	Twenty - 20	20,000
Henry Fox	Four - 4	4,000
William Miller	Five - 5	5,000
Leander Miller	Five - 5	5,000

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NAMES.	Number of Shares of 1,000 Rs. each.	Amount in Rupees.
Captain John Henry Cramer, 2d M. E. Regiment Light Infantry	Five - 5	5,000
Francois Rencontre	Four - 4	4,000
Walter Elliot	Forty - 40	40,000
E. Brennen	Twelve - 12	12,000
Wheeler Hood George Mason	Four - 4	4,000
Montagu Robert Taynton	Four - 4	4,000
Theodore Rencontre	Two - 2	2,000
George Gilbert Richardson	Ten - 10	10,000
Malcolm Lewin	Fifty - 50	50,000
James William Burnside	Two - 2	2,000
John D'Vaz	Two - 2	2,000
Coopala Ramanjaloo Naidoo	Five - 5	5,000
Kenneth Macaulay	Fifteen - 15	15,000
George Monro Aiskell Storey	One - 1	1,000
James Lacey Dighton	Twenty - 20	20,000
Lieut.-Col. Peter Edmonstone Craigie, H.M.'s 55th	Twenty - 20	20,000
Lieut. Stafford Vardon, Engineers	Five - 5	5,000
Antoine François De Colons	Ten - 10	10,000
Surgeon Archibald Shanks, M.D.	Fifteen - 15	15,000
Mrs. K. Chambers	Ten - 10	10,000
William Done Davis	Thirty - 30	30,000
Captain John James M'Murdo, 45th Regiment Native Infantry	Two - 2	2,000
Captain Walter William Ross, 17th Regiment Native Infantry	Fifteen - 15	15,000
Captain John Thomas Smith, Engineers	Five - 5	5,000
Apothecary Henry Eason	One - 1	1,000
Lieut.-Col. Robert Alexander	Five - 5	5,000
Lieut.-Col. George E. Jones, K.H., H.M.'s 57th Regiment	Thirty - 30	30,000
Robert Dean Parker	Five - 5	5,000
Reverend M. Bowie	Four - 4	4,000
Lieut.-Col. Joseph Leggett, 3d Regiment Light Infantry	Five - 5	5,000
Sir Henry C. Montgomery, Bart.	Ten - 10	10,000
Captain Charles Edward Faber, Engineers	Four - 4	4,000
Noothalapanty Bashacarlo Naick	Five - 5	5,000
Captain George Augustus Underwood, Engineers	Twenty - 20	20,000
George Bird	Eight - 8	8,000
Thomas William Nailer	Ten - 10	10,000
Lieut. Col. John Hill Winbolt, 2d Regiment Native Infantry	Ten - 10	10,000
John Horsley	Five - 5	5,000
Captain James FitzGerald, 42d Regiment Native Infantry	Three - 3	3,000
Assistant Surgeon William Rose	Four - 4	4,000
Major Duncan Montgomerie, 7th Regiment Light Cavalry	Five - 5	5,000
Stewart Forbes	Five - 5	5,000
Henry Kennett	Five - 5	5,000
Major John Ward, 39th Regiment Native Infantry	Two - 2	2,000
Captain Archibald Douglas, 49th Regiment Native Infantry	Twenty-five - 25	25,000
F. E. A. Chamier	Five - 5	5,000
Frederick Mortimer Lewin	Ten - 10	10,000
Captain George Logan, 41st Regiment Native Infantry	Five - 5	5,000
Captain Augustus DeButts, Engineers	Two - 2	2,000
Captain Richard Budd, 32d Regiment Native Infantry	Ten - 10	10,000
John Trebeck Conran, Surgeon	Five - 5	5,000
Captain Daniel Duff, 37th Regiment Native Infantry	Five - 5	5,000
Major William Taylor, 39th Regiment Native Infantry	Ten - 10	10,000
Lieut.-Col. James Perry, 31st Regiment Light Infantry	Five - 5	5,000
Captain Archibald Woodburn, 40th Regiment Native Infantry	Five - 5	5,000
Captain Francis Gresley, H. H. Nizam's Army	Five - 5	5,000
Major Alexander Lawe, Engineers	Five - 5	5,000
The Venerable Henry Harper, A.M., Archdeacon	Five - 5	5,000
John Charles Starkenburgh	One - 1	1,000
Robert Orr Campbell	Four - 4	4,000
Lieut.-Col. John James Underwood, Engineers	Ten - 10	10,000
C. C. Vencatachellum Moodelly	Two - 2	2,000
C. Colenda Moodelly	One - 1	1,000
Stewart Johnson Young	Four - 4	4,000
John Frederick Jennings, Veterinary Surgeon	Five - 5	5,000
Major General Francis Whish Wilson	Twenty-five - 25	25,000
Major Edward Archdale M'Curdy, 27th Regiment Native Infantry	Ten - 10	10,000
Assistant Surgeon James Supple	Ten - 10	10,000
Henry Martin Blair	Ten - 10	10,000
Assistant Surgeon James Eaton, M.D.	Twelve - 12	12,000
Thomas W. Goodwyn	Ten - 10	10,000
Assistant Surgeon Alexander Braithwaite Morgan, H. M.'s 55th Reg.	Five - 5	5,000
T. Soolochenum Moodelly	Twenty - 20	20,000
Joseph Roberts	Twelve - 12	12,000
Brigadier James Wahab, C. B.	Ten - 10	10,000
Mrs Gertrude E. Williams	Ten - 10	10,000

NAMES.	Number of Shares of 1,000 Rs. each.	Amount in Rupees.	ACTS of 1843.
Surgeon John Brown, M.D. - - - - -	Five - 5	5,000	
Thomas Turner - - - - -	Ten - 10	10,000	
David Rous Limond - - - - -	Ten - 10	10,000	
George S. Britain - - - - -	Twenty-five 25	25,000	
Richard Taylor - - - - -	Fifteen - 15	15,000	
Conoor Arnachellum - - - - -	Seven - 7	7,000	
William Bensley Anderson - - - - -	Ten - 10	10,000	
Dr. Alexander Smith, of Bengal - - - - -	Forty - 40	40,000	
Major Westrop Watkins, 36th Regiment Native Infantry	Ten - 10	10,000	
William Anderson - - - - -	Eight - 8	8,000	
Colonel William Cullen - - - - -	Twenty - 20	20,000	
John Rosmal Cocy - - - - -	Six - 6	6,000	
Captain Thomas Larkins - - - - -	Forty - 40	40,000	
George James Casamajor - - - - -	Thirty - 30	30,000	
Patrick Grant - - - - -	Twenty - 20	20,000	
Surgeon Cornelius Desormeux - - - - -	Two - 2	2,000	
Captain John Charles Hawes, 1st M. E. Regiment - - - - -	Twenty - 20	20,000	
Captain George Leacock, 51st Regiment Native Infantry	Six - 6	6,000	
Gundavady Vencataram Chetty - - - - -	One - 1	1,000	
Rungamah - - - - -	One - 1	1,000	
Major John Wynch, Artillery - - - - -	Five - 5	5,000	
Lieutenant John Ouchterlony, Engineers - - - - -	Four - 4	4,000	
Vurdarajooloo Naicker - - - - -	Two - 2	2,000	
Edward Samuel Atkinson - - - - -	Ten - 10	10,000	
Miss Charlotte Eliza Anne Gardner - - - - -	Five - 5	5,000	
Miss Martha Mary Louisa Gardner - - - - -	Five - 5	5,000	
Henry James Gardner - - - - -	Five - 5	5,000	
Captain C. J. Westley, Bombay Army - - - - -	Ten - 10	10,000	
Andrew Robertson - - - - -	Twenty - 20	20,000	
Edward Peters - - - - -	Twelve - 12	12,000	
Lieut. Col. Charles Dennis Dun, 44th Regiment Native Infantry	Fifteen - 15	15,000	
William Elphinstone Underwood - - - - -	Fifteen - 15	15,000	
William Waddell - - - - -	Twenty - 20	20,000	
Edward Vincent - - - - -	Two - 2	2,000	
Mrs. Hosanna Arathoon Kerakoose - - - - -	Fifty - 50	50,000	
Nathaniel William Kindersley - - - - -	Ten - 10	10,000	
Captain William Henry Simpson, 36th Native Infantry - - - - -	Seven - 7	7,000	
Joseph Barrow - - - - -	Fifteen - 15	15,000	
Benjamin Cardozo - - - - -	Five - 5	5,000	
Felix Philips - - - - -	Five - 5	5,000	
Hew Drummond Elphinstone Dalrymple - - - - -	Twenty - 20	20,000	
Narrain Doss Gopaul Doss - - - - -	Twelve - 12	12,000	
Jevaram Davy - - - - -	Four - 4	4,000	
Captain James Palmer Woodward, 9th Regiment Native Infantry	Five - 5	5,000	
Gurderdoss Govindoss - - - - -	Twelve - 12	12,000	
P. Dasekah Charloo - - - - -	Two - 2	2,000	
Vembaukum Nursingiah Braminy - - - - -	Two - 2	2,000	
Vembaukum Ragavah Charrier - - - - -	Two - 2	2,000	
Major Frederick Minchin, 47th Regiment Native Infantry	Twenty - 20	20,000	
A. Vencatachellum Chetty - - - - -	Four - 4	4,000	
Girdirdoss Vallabadoss - - - - -	Twelve - 12	12,000	
William Paten - - - - -	Two - 2	2,000	
Miss Maria Paten - - - - -	One - 1	1,000	
Miss Catherine Paten - - - - -	One - 1	1,000	
Miss Louisa Paten - - - - -	One - 1	1,000	
Colonel Charles Augustus Elderton, 52d Regiment Native Infantry	Ten - 10	10,000	
Captain John Henry Bowden Coughden, 2d Regiment Native Infantry	Five - 5	5,000	
J. Holland, Deputy Quarter Master General Bombay Army - - - - -	Ten - 10	10,000	
Lieut.-Col. Wm. Martin Burton, Artillery - - - - -	Five - 5	5,000	
Capt. Alexander Shirriffs, 21st Regiment Native Infantry	Five - 5	5,000	
Capt. Peter Thomas Cherry, 1st Regiment Light Cavalry	Five - 5	5,000	
Col. Thomas Fiddes - - - - -	Seven - 7	7,000	
		2,700,000	

## ACT No. X. of 1843.

Passed by the Right Honourable the Governor-General of India in Council on  
the 15th July 1843.

AN ACT for the Administration of Justice and Collection of the Revenue in the  
Districts of Kurnool and Bunganapilly.

I. It is hereby enacted, that from and after the 1st day of September 1843 the administration of civil and criminal justice, the superintendence of the police, Administration of civil and criminal justice and police and superintend-

cases of all revenue affairs in the districts of Kurnool and Bunganapilly, vested in an agent to be appointed by Government of Fort St. George, with assistants similarly appointed.

Government of Fort St. George may prescribe rules for guidance of agent and his subordinates.

And may fix the limit of final civil jurisdiction and of appeals.

And may define authority of agent in criminal trials, and what cases shall be submitted to Foudaree Adawlut.

On trials referred, Foudaree Adawlut shall pass judgment or pass order as in cases referred from a judge of circuit.

Civil appeals to be decided by Sudder Adawlut as appeals from provincial courts.

Government of Fort St. George competent, with the previous sanction of the Supreme Government, to make alterations in the limits of the jurisdiction of the agent.

and the collection and superintendence of the revenues of every description within the districts of Kurnool and Bunganapilly shall vest in such agent to the Governor of Fort St. George as shall be appointed by the Governor in Council of Fort St. George, and shall be exercised by the said agent with the aid of such assistants as may be appointed by the said Governor in Council.

II. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George, by an order in Council, to prescribe such rules as he may deem proper for the guidance of the agent aforesaid, and of all the officers subordinate to his control and authority, and to determine to what extent the decision of the agent in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Adawlut, and to define the authority to be exercised by the agent in criminal trials, and what cases he shall submit to the decision of the Foudaree Adawlut.

III. And it is hereby enacted, that, upon the receipt of any criminal trials referred by the agent under the rules which may be hereafter prescribed by the Governor in Council, the Foudaree Adawlut shall proceed to pass a final judgment or such other order as may, after mature consideration, seem to the court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a judge of circuit.

IV. And it is hereby enacted, that upon the receipt of any appeal from a decree of the agent, duly preferred under the rules to be prescribed as aforesaid, the Court of Sudder Adawlut shall proceed to try and determine it in the same manner as appeals from the provincial courts.

V. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George, by an Order in Council, to make from time to time, with the previous sanction of the Governor-General of India in Council, such alterations in the limits of the aforesaid districts placed under the jurisdiction of the said agent, as he may deem expedient.

### ACT No. XI. of 1843.

Passed by the Right Honourable the Governor-General of India in Council on the 22d July 1843.

AN ACT for regulating the Service of Hereditary Officers under the Presidency of Bombay.

#### Preamble.

Whereas it has been found that the provisions of Regulation XVI. 1827 of the Bombay Code are insufficient to secure the efficient discharge of the duties of hereditary officers :

I. It is hereby enacted, that sections 17 and 18 of Regulation XVI. of 1827 of the Bombay Code, be rescinded.

II. And it is hereby enacted, that all hereditary officers, of whatever denomination, belonging to or employed in the management of the land revenue, or of the customs or town duties, or excise, or other revenue, or in the police, or in the civil administration of the country, shall render the usual services of their respective offices, as far as the same may be required by the collector or other officer under whose control they may be placed by usage or the orders of Government.

III. And it is hereby enacted, that when the duties of an hereditary office fall in more than one department, it shall be competent to the Governor in Council of Bombay to prescribe what officer shall be vested with the control of such office.

IV. And it is hereby enacted, that it shall be competent to the collector or other officer to whom the duties of an hereditary office are, as provided in Clause II., to be rendered, when the performance of those duties is claimed in rotation by different sharers, to require that the sharers in the wuttun shall nominate a fit and proper person from among their number, who shall hold the office as the representative of the family either during life or for such term not being less in each

each instance than five years, as the collector or controlling officer shall determine, with the sanction of the Governor in Council, and in the event of the sharers not so nominating when required, one or more of their number, within a reasonable period, to be fixed by the collector or controlling officer, the collector or controlling officer shall himself exercise the power of selection, subject to the approval of the Governor in Council.

V. And it is hereby enacted, that it shall be competent to the collector or controlling officer to refuse to confirm the nomination by the sharers, of any individual, if he shall have reason to think that, from age or personal disqualification, the duties of the office will not be properly performed by him, or if, from character and past conduct, the person nominated be considered unworthy of trust, provided that the grounds of such refusal shall be recorded in writing, and that an appeal from such decision shall lie to the Governor in Council, whose order thereon shall be final.

VI. And it is hereby enacted, that the collector or controlling officer shall have power to punish officiating hereditary officers for misconduct or neglect of duty by suspension from office, pay and emolument, or by fine not exceeding the computed official emolument of their offices for three months, and to levy the said fine in the mode authorized for realizing revenue demands.

VII. And it is hereby further enacted, that the collector or controlling officer, in cases of misconduct or incompetency on the part of an officiating hereditary officer, shall have power to dismiss such officer from his employment, but no such dismissal shall take place, except on an investigation recorded in writing, which shall be submitted for the approval and sanction of the Governor in Council.

VIII. And it is hereby enacted, that in conducting the investigation prescribed in the preceding section, the collector or controlling officer shall have the same authority as a magistrate in compelling the attendance of parties and witnesses, and the production of papers, and in taking evidence.

IX. And it is hereby further enacted, that whenever any such hereditary officer shall be convicted of fraud or malversation, or of any criminal offence in the conduct of the duties of the office by any sessions court, it shall be lawful for the said Governor in Council to direct the confiscation of the wuttun, either wholly or in part, and after such confiscation the duties of the office shall be performed by such person as the Governor in Council shall appoint, and the surplus proceeds of the wuttun shall be disposed of for the benefit of the parties previously entitled thereto, or otherwise, in such manner as the said Governor in Council may direct.

X. And it is hereby enacted, that no female shall perform in person the duties of any hereditary office.

XI. And it is hereby enacted, that if any hereditary officer is incapable of personally discharging the duties of his or her office, by reason of sex, minority, mental or bodily infirmity, or manifest incapacity, it shall be lawful for the collector or controlling officer to call upon him or her, or his or her guardians, to appoint a deputy, subject to his approval, and on the party or parties failing to appoint a fit deputy within a reasonable period the appointment shall be made by the said collector or controlling officer.

XII. And it is hereby enacted, that all deputies appointed to perform the duties of hereditary offices under this Act and under section 4, Regulation V., 1833, of the Bombay Code, shall be subject to the same rules and penalties as the principals, and that the wuttun of the office shall be liable to confiscation upon the conviction by any sessions court of any deputy appointed by the hereditary officer, in the same manner as it would be under the 9th section of this Act upon the conviction of the hereditary officer himself.

XIII. And it is hereby enacted, that nothing contained in this Act shall be construed to debar the right of any sharer to participate in the rents and profits of any hereditary office so held and filled as above provided, after provision shall have been made therefrom for the fit maintenance of the officiating hereditary officer, for which purpose it shall be competent to the collector or controlling

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officer to fix and assign a specific portion of such rents and emoluments, leaving the remainder only subject to the claims of the other sharers, and further that the portion of the rents and emoluments so fixed and assigned shall be the official remuneration of the officiating hereditary officer, and shall not be liable to civil process of any court of law.

XIV. And it is hereby enacted, that whenever it may be necessary, as hereinbefore provided, that the collector or controlling officer shall appoint a deputy to conduct the duties of an hereditary office, it shall be lawful for him to assign to such deputy a fit remuneration from the rents and profits of the said office.

XV. And it is hereby enacted, that the terms "hereditary district or village office or officers" or "hereditary district or village revenue office or officers" used in Regulation XVI., 1827, and Regulation V., 1833, of the Bombay Code, shall be held to apply to all descriptions of hereditary offices and officers.

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ACT No. XII. of 1843.

Passed by the Right Honourable the Governor-General of India in Council on the 29th July 1843.

AN ACT concerning the Time at which and the Language in which the Decisions of the Judges in the Courts of the East India Company are to be written.

Whereas it is expedient, that the decisions of courts of justice and the reasons for the decision should be written and signed by the judge at the time of pronouncing his decision, and in the vernacular language of the judge :

I. It is hereby enacted, that in all the presidencies so much of all decrees as consists of the points to be decided, the decision thereon, and the reasons for the decision, and all injunctions for the revision of decrees in regular suits, and all orders for reviews of judgment, which shall be passed by judges of the sudder courts, or by judges of zillah and city courts, or by subordinate or assistant judges of zillahs, shall be written originally in English, and signed by the judge or judges at the time of pronouncing such decision and orders ; and shall be translated into the vernacular language commonly used in the court wherein the suit to which the decree or order relates, shall have been instituted ; and the translation shall be incorporated in the decree.

II. Provided that nothing in this Act contained shall be construed to repeal or affect any regulation of the codes of the Presidencies of Fort St. George and Bombay, by which the decrees of the sudder courts are required to be written in English, nor to repeal or affect any regulation of the code of the Presidency of Fort St. George, by which the decrees of the provincial and zillah courts and the auxiliary courts under assistant judges, and the orders of the sudder court and provincial courts on petitions presented to them, are required to be written in English.

And whereas it is expedient, that, excepting as regards the language to be used, principal sudder ameens, sudder ameens and moonsiffs, should be guided by the same rules as are hereinbefore provided for the guidance of the superior judges ;—

III. It is hereby enacted, that in all the presidencies so much of all decrees as consists of the points to be decided, the decision thereon, and the reason for the decision, which shall be passed by principal sudder ameens, sudder ameens or moonsiffs, shall be written originally in the vernacular language of such principal sudder ameen, sudder ameen or moonsiff, and signed by such principal sudder ameen, sudder ameen or moonsiff at the time of pronouncing such decision, and (in case such vernacular language shall not be the same as the vernacular language commonly used in the court wherein the suit to which the decree relates, shall have been instituted). shall be translated into such last-mentioned vernacular language and the translation shall be incorporated in the decree.

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ACT

## ACT No. XIII. of 1843.

ACTS of 1843.

Passed by the Right Honourable the Governor-General of India in Council on the 29th July 1843.

AN ACT for regulating Inquiries into the Truth of Matters implicating the public Conduct of Officers not removeable without the sanction of Government within the Presidency of Fort St. George in Madras.

Whereas it is expedient to amend the provisions contained in the Regulations concerning inquiries into the truth of matters implicating the public conduct of European officers, and to extend the same to all officers not removeable without the sanction of Government ;

I. It is hereby enacted, that Regulations III. of 1809, II. of 1810, VI. of 1818, and VIII. of 1822, of the Madras Code, be repealed.

II. And it is hereby enacted, that in the territories subject to the Presidency of Fort St. George in Madras, whenever either the courts of Sudder and Foujdaree Adawlut, or the Board of Revenue, shall be of opinion that substantial grounds exist for making a regular and formal inquiry into the truth of any imputation of official misconduct affecting any officer subject to their control respectively, and not removeable without the sanction of Government, they shall submit the documents on which their opinion may be founded, together with a statement of the charges, reduced to distinct articles, which they may propose to be made the subject of a regular investigation, to the Governor in Council of Fort St. George, for his consideration and orders.

III. And it is hereby enacted, that any charge or information, of the description aforesaid, may be preferred direct to the courts of Sudder and Foujdaree Adawlut or to the Board of Revenue, respectively, who shall examine the complainant or informant circumstantially upon oath, or upon solemn affirmation if he be entitled to be exempted from taking an oath, and require the party accused to explain or reply to any matters they may deem to need explanation, and make such further inquiries, upon oath or affirmation upon the subject as they may judge proper.

IV. And it is hereby enacted, that any charge or information may also be made before any judge, magistrate or collector for any acts of the description before mentioned committed within their jurisdiction, respectively, who shall examine the complainant or informant circumstantially upon oath, or upon solemn affirmation if he be entitled to be exempted from taking an oath, and shall transmit the deposition so taken to the Sudder and Foujdaree Adawlut, or to the Board of Revenue, according as the person accused may be subject to those authorities respectively.

V. And it is hereby provided, that it shall not be lawful for the courts of Sudder and Foujdaree Adawlut or the said board, respectively, to act upon any such charge or information, unless the person preferring the same shall make oath, or solemn affirmation in case he be entitled to be exempted from taking an oath, that he believes the facts on which the charge is grounded to be true.

VI. And it is hereby provided, that it shall be lawful for the courts of Sudder and Foujdaree Adawlut and for the said board, respectively, to dismiss any such charge or information, where they do not see any substantial reason for entering further into the inquiry: Provided, that on every occasion when they shall dismiss any such charge or information they shall submit the same, together with all the circumstances of the case, in like manner as is provided in section 2 of this Act.

VII. And it is hereby provided, that the said courts of Sudder and Foujdaree Adawlut and the said board, respectively, may, at any stage of the inquiry into such matters as aforesaid, require the person preferring such charge or information as aforesaid to furnish such security as may be deemed reasonable, that he will attend and prosecute the charge to a conclusion, and in the event of security being so required, all proceedings shall be stayed until the same shall be furnished accordingly.

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VIII. And it is hereby provided, nevertheless, that if any matter of the nature aforesaid, affecting such officer as is mentioned in the second section of this Act, shall appear in the course of any proceedings, whether preliminary or otherwise, which shall come before or be reported to either of the courts of Sudder and Foujdaree Adawlut or the said board, respectively, those authorities shall act upon such matter, or institute such inquiry upon oath or affirmation as aforesaid, into the same as they shall deem proper for the purpose of such reference as aforesaid to the Governor in Council of Fort St. George, although no charge or information be preferred as aforesaid: and in such cases it shall not be necessary before acting upon or instituting any inquiry concerning any matter so appearing in the course of proceedings, to require any oath or affirmation in regard to the truth of such matter.

IX. And it is hereby enacted, that if the Governor in Council of Fort St. George, upon such reference as is mentioned in the second section of this Act, shall concur with the authority by which it may be submitted, or if such Governor in Council shall, from information of the description aforesaid that may be laid before him in respect of any officer not directly subject to the courts or board above named, deem it necessary to institute proceedings against any such officer, he shall appoint a commissioner or commissioners for making a regular and formal inquiry into the truth of the matters referred.

X. And it is hereby enacted, that on the appointment of every such commission the said Governor in Council shall direct whether, the commission shall be placed under the control of any of the authorities aforesaid, or shall act immediately under the authority of Government, and all commissions appointed as aforesaid shall be guided by the instructions which they may receive in this behalf from the Government.

XI. And it is hereby enacted, that the commissioner or commissioners appointed as aforesaid, before entering on the discharge of his or their duties, shall take the following oath:

I, A. B., Commissioner for the purpose of [here state the object of the commission] do solemnly swear that I will faithfully and impartially perform the duty committed to me without fear, favour or bias, to the best of my ability, knowledge, and judgment. So help me God.

XII. And it is hereby enacted, that whenever a charge shall be referred for investigation to a special commission, the said Governor in Council will determine whether the conduct of the prosecution shall be left to the accuser, or be undertaken on the part of Government. In the latter case, the said Governor in Council will nominate such person or persons as may be deemed proper to conduct the prosecution on behalf of Government.

XIII. And it is hereby enacted, that it shall be the duty of Commissioners appointed under this Act, after receiving the plaint or charge, and the documents from which the same may have been prepared, to call upon the person accused for his reply to the accusation; to examine upon oath, or under a solemn declaration, the witnesses named by the accuser or the accused; to receive any further written documents offered in support of, or against the accusation, and to call for and take any further requisite evidence which may be indicated by the witnesses adduced or documents exhibited by either party, and may appear to be necessary for the ascertainment of facts, or the discovery of the truth or falsehood of the charges, or of any part thereof.

XIV. And it is hereby enacted, that for the discharge of the duties specified in the preceding section, or any other functions which may be delegated to a commission under this Act, such commission shall be vested with the same powers as are exercised by the zillah courts, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through the zillah judge in whose jurisdiction the commission may be held, and executed by the zillah judge in whose jurisdiction the witness or other person upon whom the process is to be served may reside.

XV. And it is hereby enacted, that on the close of the evidence for the prosecution and defence, the accused shall be at liberty to record any observation upon the result of the inquiry which he may think necessary for the vindication of his  
conduct

conduct and character. The accuser, or the person appointed to conduct the prosecution on the part of Government, shall also be at liberty to record any remarks on the subject of the prosecution which he may deem requisite.

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XVI. And it is hereby enacted, that as soon after the conclusion of the proceedings as circumstances shall permit, the commissioner or commissioners shall, when the commission shall be instructed to act immediately under the authority of Government, submit directly to the Government to which he or they may be subordinate, and in other cases to the controlling court or board, the proceedings under the commission, accompanied by translations of papers not in the English language, together with a summary of the pleadings and evidence, and his or their opinion of the merits of the case.

XVII. And it is hereby provided, that it shall be lawful for the said Governor in Council, or the controlling court or board, upon consideration of the report of any such commission as aforesaid, to direct the commissioner or commissioners to take further evidence, or to give further explanation of his or their opinion or opinions connected with the case investigated, and the commissioner or commissioners are authorized and required to take such further evidence, and to give such further explanation.

XVIII. And it is hereby enacted, that the Sudder and Foujdaree Adawlut, or the board to which any report of a commissioner or commissioners may be submitted as aforesaid after due consideration of the same, and after obtaining such further evidence or explanations as they may require, shall submit the whole of the proceedings and documents received by them to the Government, together with their opinion whether any and what charges have been established against the accused.

XIX. And it is hereby provided, that whenever a special commission may be appointed under the provisions of this Act, the said Governor in Council will determine, on a view of the nature and circumstances of the case, whether the accused officer shall be suspended from the discharge of the functions of his office; and if so, whether he shall be permitted to draw the established allowances of his office, or otherwise.

XX. And it is hereby provided, that the Governor in Council, on consideration of the report and proceedings submitted to him in pursuance of sections 16 and 18 of this Act, will pass such decision on the case as may appear to him most consonant to the principles of justice and consistent with the powers possessed by Government in matters of this description; and in the event of his deeming it necessary that the party accused should be brought to trial by a public prosecution before a competent court of law, will issue the necessary instructions for that purpose to the law officers of Government. But whatever proceedings may be held, or whatever decision or order may be passed by Government, individuals deeming themselves aggrieved by any public officer, will be at all times at liberty to seek redress according to the ordinary forms prescribed by law.

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#### ACT No. XIV. of 1843.

Passed by the Right Honourable the Governor-General of India in Council on the 5th August 1843.

An Act for regulating the Levy of Customs Duties, and the Manufacture of Salt in the North-Western Provinces of the Presidency of Bengal.

I. It is hereby enacted, that Regulation XVI. 1829, Act. II. 1838, and so much of Regulation IX. 1810, and of any other Regulation and Act as affects the collection of Customs duties, or the manufacture of salt in the North-Western Provinces of the Presidency of Bengal, shall be repealed from the 1st day of September 1843.

II. And it is further enacted, that from and after the day above mentioned, the following and no other duties of Customs shall be leviable upon the import and export of articles into and from the North-Western Provinces of the Presidency of Bengal; that is to say,



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On the import of salt, of all descriptions, two rupees per maund ; and a further duty of one rupee per maund on the transmission thereof to the eastward of Allahabad :

On the import of cotton, uncleaned, four annas per maund ; cleaned, eight annas per maund :

On the export of misree, kund, chenee and all clayed and refined sugar, eight annas per maund ; goor, rāb, sheerah, and all unclayed and unrefined saccharine produce, three annas per maund :

The import of sugar into any part of the said provinces is and shall remain prohibited.

III. And it is further enacted, that it shall be lawful for the Government of the said provinces from time to time to make and issue such orders as may be deemed expedient for the collection of the aforesaid duties, in such manner, and upon such line or lines, and at such places on or near such line or lines as may seem fit, and all such orders shall have the same force as if they formed a part of this Act, from the date notified in the Gazette wherein they shall be published.

IV. And it is further enacted, that from and after the 1st day of September 1843, the manufacture of alimentary salt throughout the north western provinces of the Presidency of Bengal, without the express sanction of the Government, is prohibited ; and that any person engaging in the manufacture of such salt, or preparing or causing to be prepared works for the manufacture of such salt, without such sanction, and all zemindars, or other proprietors of land, or their agents, conniving at such illicit manufacture, shall, on conviction by the magistrate, within the limits of whose district the offence may have occurred, be punished by a fine not exceeding 500 rupees, and on non-payment of such fine, by imprisonment, not exceeding six months, with or without hard labour, and that all works at which such manufacture shall have been conducted, or which are designed for such manufacture, shall be destroyed, and any salt which may be manufactured or stored thereat, shall be seized and confiscated.

V. And it is further enacted, that it shall be lawful for the collectors of customs, and the collectors of land revenue within their jurisdictions, to destroy all works for the manufacture of salt, and to seize the salt stored thereat, and to apprehend the persons concerned in the manufacture thereof, and make them over for trial to the magistrate within the limits of whose district the offence may have occurred.

VI. It is further enacted, that all sugar imported into the said provinces, and all articles imported or exported, without payment of the duties imposed by this Act, or in contravention of the orders which may be made and issued under the provisions thereof, and all boats, carriages and conveyances, and all animals used in transporting the same, shall be liable to be seized and confiscated in the manner hereinafter mentioned.

VII. And it is further enacted, that all persons evading or attempting to evade the payment of the duties imposed by this Act, and all persons aiding or abetting such attempts or evasions, or in any manner acting in contravention of this Act, or of any order made and issued under the provisions thereof, and all zemindars and other proprietors of land, or their agents, who shall wilfully connive at such attempts or evasions, or aid such acts, shall, on conviction by the magistrate within the limits of whose district the offence may have occurred, be punished by a fine not exceeding 500 rupees, and on non-payment thereof by imprisonment, not exceeding six months, with or without hard labour.

VIII. And it is further enacted, that it shall be lawful for all officers of the Customs department to search any carriages and conveyances, and any packages upon reasonable grounds of suspicion that such carriages, conveyances or packages contain any articles made subject to duty, or prohibited to be imported by this Act, and to detain all such articles as may be liable to confiscation under the provisions thereof.

IX. And it is hereby enacted, that whenever any articles or goods shall be seized or detained under the provisions of this Act, the collector or deputy collector

lector of land revenue or Customs, within whose jurisdiction such seizure or detention shall occur, shall, with all practicable expedition, report the case for the determination of the commissioner of revenue, and it shall be lawful for such commissioner to declare such articles or goods to be confiscated, or to impose such lesser penalty in lieu thereof as to him may seem fit.

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X. And it is hereby enacted, that it shall be lawful for all officers in the Customs department to apprehend any person upon reasonable grounds of suspicion that such person is liable to punishment under this Act, and to make him over for trial with all practicable expedition to the magistrate within whose jurisdiction the offence may occur.

XI. Provided always, that any officer of the Customs department who shall, without reasonable grounds of suspicion search any carriage or conveyance, or any package, shall, upon conviction thereof before the magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding 250 rupees, which fine shall be paid over to the party aggrieved, and on non-payment of such fine, with imprisonment not exceeding three months; and provided also, that any officer of the Customs department who shall, under colour of this Act, apprehend any person without reasonable grounds of suspicion that such person is liable to punishment under this Act, shall upon conviction before the magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding 500 rupees, which fine shall be paid over to the party aggrieved, and on non-payment of such fine, with imprisonment not exceeding six months.

XII. And it is hereby enacted, that all magistrates, or persons exercising the powers of magistrate, shall be competent to receive and determine all charges against persons thus made over to them for trial on account of offences against this Act, and that all sentences passed in pursuance of this Act shall be open to appeal, under such rules as may from time to time be laid down for the cognizance of appeals in ordinary cases.

XIII. And it is hereby enacted, that all officers of police, and all officers of the Government engaged in the collection of the land revenue, are empowered and required to aid and assist the officers of the Customs department in the execution of this Act.

XIV. And it is further enacted, that nothing in this Act contained shall apply or be deemed to apply to the Saugor and Nerbudda territories, or to the district of Ajmere.

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#### ACT No. XV. of 1843.

Passed by the Right Honourable the Governor-General of India in Council on the 5th August 1843.

#### AN ACT for the more extensive Employment of uncovenanted Agency in the Judicial Department.

Whereas the exigencies of the public service require that the police and criminal branch of the judicial department should be strengthened by the more extensive employment of uncovenanted agency;

I. It is hereby enacted, that it shall be competent to the local governments of both divisions of the Bengal Presidency to appoint in any zillah or district one or more uncovenanted deputy magistrates with the powers hereinafter specified.

II. And it is hereby enacted, that every person appointed to the office of deputy magistrate under this Act shall, previously to entering upon the execution of the duties of his office, make and subscribe before the magistrate of the district to which he may be appointed, a declaration according to Act XXI. 1837.

III. And it is hereby enacted, that a deputy magistrate appointed under this Act shall be capable of being employed as a judicial officer, or as an officer of police,

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police, or both, at the discretion of the local government; as a judicial officer he shall exercise the powers of a covenanted assistant under Regulations XIII. 1797, IX. 1807, or III. 1821, or the full powers of a magistrate according to such orders as may from time to time be issued in that respect by the local government; and in such cases he shall be subject to such authority in regard to appeals from his decisions and judicial orders as is provided for the decisions and orders of a covenanted assistant under the above regulations or of a magistrate respectively; as an officer of police he shall be in all respects subordinate to the magistrate under whom he may be placed; he shall exercise such powers as the Government or the magistrate, with the sanction of Government, may commit to him, and shall obey all orders that may be issued, and perform all duties that may be assigned to him by that functionary, who shall be at all times competent, subject to such orders as he may receive from the local government, to extend, limit or resume the powers committed to such deputy.

IV. And it is hereby enacted, that nothing in this Act contained shall be held to disqualify any uncovenanted officer in the revenue and judicial departments from holding at the same time with any other office the office of deputy magistrate.

V. And it is hereby enacted, that a deputy magistrate appointed under this Act shall not be dismissed from office for misconduct without the sanction of the local government; whenever there may be reason to believe that a deputy magistrate is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the local magistrate for the consideration and orders of the local government which shall be competent to suspend him, and order a further inquiry into his conduct, or to direct his immediate dismissal as may appear just and proper.

VI. And it is hereby declared, that no native of the territories subject to the government of the East India Company, nor any natural born subject of Her Majesty resident therein, is, by reason only of his religion, place of birth, descent, color, or any of them, disabled from holding the office of deputy collector under Regulation IX. of 1833.

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#### ACT No. XVI OF 1843.

Passed by the Right Honourable the Governor-General of India in Council on the 12th August 1843.

**AN Act regarding the offering of Rewards for the Apprehension of Offenders.**

Whereas inconvenience has been experienced from the rules in force which provide that magistrates shall apply to the Courts of Sudder Nizamut Adawlut and the courts of circuits, or courts exercising the powers of the old courts of circuit, when it may appear advisable to offer a reward for the apprehension of a known offender, or the discovery of unknown, offenders in cases of magnitude: and whereas it is expedient that all such applications should be made to such officer or officers as from time to time may be empowered by the local governments to authorize the grant of rewards;

It is hereby enacted, that sections 2 and 3, Regulation IX. of 1808, and sections 16 and 17, Regulation XVI. 1810 of the Bengal Code, be and the same are hereby repealed.

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#### ACT No. XVII. OF 1843.

Passed by the Right Honourable the Governor-General of India in Council on the 19th August 1843.

**AN Act for the Appointment of Official Trustees in certain cases.**

Whereas the property of infants, feme coverts and others, vested in trustees, is exposed to peculiar risks and burthens in the territories subject to the government

ment of the East India Company, not only from the insolvency of trustees, but from the frequent difficulties occasioned by their death, or absence, or refusal or incapacity to act :

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I. It is hereby enacted, that in all cases in which any property is subject to any trust, and there shall be no trustee willing to act or capable of acting within the jurisdiction of Her Majesty's courts in the said territories, it shall be lawful for the Supreme Court of each of the Presidencies in the said territories, on petition, to appoint the registrar, or such other officer of the court as the court may from time to time select as the official trustee, under the provisions of this Act, to be a trustee of such property, and that upon such appointment such property shall vest in such officer and his successors in office, and shall be held by them upon the same trusts as the same was held previous to such appointment.

II. And it is hereby further enacted, that such officer shall cause such property to be invested in Government Securities, or otherwise, as the court shall direct, and that he shall be entitled to a commission of one per cent. upon the amount thereof.

III. And it is hereby further enacted, that it shall be lawful for the court to make any orders respecting such property so vested in such official trustee, or the interest or produce thereof, and that all such orders shall be made on petition, unless the court shall direct a bill to be filed.

IV. And it is hereby provided, that nothing in this Act contained shall prevent the re-transfer of the said property to the original or any subsequently appointed trustees or otherwise as the court shall direct.

V. And it is hereby further enacted, that where any infant or lunatic shall be entitled to any gift or legacy, or residue or share thereof, it shall be lawful for the executor or administrator by whom such legacy or residue may be payable or transferable, or the party by whom such gift shall be made, or any trustee thereof, to pay or transfer the same to the official trustee appointed under this Act, and that the receipt of such official trustee shall be a discharge for the same ; and that the same shall be subject to the like provisions as are contained in this Act as to other property vested in such official trustee under the provisions thereof.

VI. And it is hereby further enacted, that the provisions of this Act, except as to the commission to be allowed under the same, shall extend to any property of infants or lunatics in the hands of the ecclesiastical registrar of each of the said courts as official administrator.

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#### ACT No. XVIII. OF 1843.

Passed by the Right Honourable the Governor-General of India in Council  
on the 9th September 1843.

AN Act for the better Custody of Persons convicted of Thuggee and Dacoity.

Whereas it often happens that the offences of thuggee and dacoity are committed by gangs, as well within the territories subject to the government of the East India Company, as in those of native princes or states in alliance with the said Company, and it may be necessary, for the safety of persons and property within the territories subject to the government of the East India Company, that persons convicted of the like offences within the territories of such princes or states, should be kept in secure custody, which cannot always be done within the last-mentioned territories ;

It is hereby enacted, that it shall be lawful for the local government of any part of the territories subject to the government of the East India Company, to authorize the reception and detention in any part of those territories, for the periods specified in their respective sentences, of persons sentenced to imprisonment or transportation for the offences of thuggee, dacoity, or the offences of belonging to any gang of thugs or dacoits, within the territories of any native prince or state in alliance with the said Company : Provided always, that such sentences shall have been pronounced after trial before a tribunal, in which a covenanted servant of the East India Company, duly authorized in that behalf by such prince or state, shall be one of the presiding judges. And it is hereby enacted,

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enacted, that every servant of the East India Company so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment may be carried into effect.

ACT No. XIX. of 1843.

Passed by the Right Honourable the Governor-General of India in Council  
on the 28th October 1843.

AN ACT for amending the Law respecting the Registration of certain Deeds.

Whereas doubts have arisen as to the true meaning and construction of Act No. I. of 1843;

I. It is hereby enacted, that the said Act is repealed, except in so far as it repeals all provisions contained in any Regulation or Regulations of the Bengal, Madras or Bombay Codes, touching the knowledge or notice had by parties to registered conveyances and other instruments affecting titles to land and other interests therein, of the existence of unregistered conveyances or other instruments affecting such titles or other interests therein.

II. And it is hereby enacted, that from the first day of May last past, every deed of sale or gift of lands, houses or other real property, a memorial of which has been or shall be duly registered according to law, shall, provided its authenticity be established to the satisfaction of the court, invalidate any other deed of sale or gift for the same property which may not have been registered, and whether such second or other deed shall have been executed prior or subsequent to the registered deed, and that from the said day every deed of mortgage on land, houses and other real property, as well as certificates of the discharge of such incumbrances, a memorial of which has been or shall be duly registered according to law, and provided its authenticity be established to the satisfaction of the court, shall be satisfied in preference to any other mortgage on the same property which may not have been registered, and whether such second or other mortgage shall have been executed prior or subsequent to the registered mortgage, any knowledge or notice of any such unregistered deed or certificate alleged to be had by any party to such registered deed or certificate notwithstanding: Provided always that nothing in this section contained shall be construed to extend to any deed or certificate made before the said first day of May last past.

III. And it is hereby declared and enacted, that no conveyance or other instrument affecting title to land, or any interest in the same, whether made before or after the said first day of May last past, other than such deeds or certificates as aforesaid, are or shall be in any respect void for want of registration, any Act, Regulation or Law to the contrary notwithstanding.

ACT No. XX. of 1843.

Passed by the Right Honourable the Governor-General of India in Council  
on the 30th October 1843.

AN ACT for providing for the Exercise of certain Powers by the Governor-General during his Absence from the Council of India.

I. Whereas it is expedient that the Governor-General should visit the North-Western Provinces and other parts of India unaccompanied by any member of the Council of India; it is enacted, that during the absence of the Governor-General from the Council of India, it shall be lawful for the Governor-General alone to exercise all the powers which may be exercised by the Governor-General in Council, except always the power of making Laws and Regulations.

II. And it is further enacted, that this Act shall commence from the day on which it shall be notified by an order published in the official Gazette, that the Governor-General has quitted Calcutta for the purpose of so proceeding as aforesaid.

## ACT No. XXI. OF 1843.

Passed by the Right Honourable the Governor-General of India in Council  
on the 11th November 1843.

**AN ACT** for regulating the Emigration of Labourers from India to Mauritius.

I. Whereas it has been represented that the demands of the Island of Mauritius for agricultural labour will by the end of this year be greatly diminished, and it is desirable that effectual measures should be adopted for providing a larger proportion of female emigrants to that island than has been procured under the present system of emigration, it is therefore enacted, that from and after the 1st day of January next ensuing, emigration to Mauritius shall only lawfully take place under the provisions of the Act, No. 15 of 1842, from the port of Calcutta.

II. And it is hereby enacted, that it shall be competent to the Governor-General in Council to nominate a proper person to act as protector of emigrants at Calcutta, and that no emigrant shall be permitted to embark without a certificate from the agent appointed by the Government of Mauritius, countersigned by the protector, to the effect that such person has been engaged by him as an emigrant to that island on the part of the said government.

## ACT No. XXII. OF 1843.

Passed by the Right Honourable the Governor-General of India in Council  
on the 18th November 1843.

**AN ACT** for amending the Law relating to the Jurisdiction of Dewanny Adawlut of the Zillah of the Twenty-four Pergunnahs.

Whereas by section 17 of Regulation III. of 1793, of the Bengal Code, it was, amongst other things, provided, that the Dewanny Adawlut of the zillah of the twenty-four pergunnahs, should not receive or entertain any suit whatever against a person who might be an inhabitant of Calcutta at the time the suit might be instituted, or might become a resident within the limits of the town after the suit might be commenced :

And whereas inconvenience has arisen in consequence of persons escaping from the jurisdiction of the Dewanny Adawlut of the said zillah of the twenty-four pergunnahs after suits have been commenced therein, and it is expedient to prevent such inconvenience :

It is therefore hereby enacted, that so much of the said Regulation as is hereinbefore recited, be repealed.

## ACT No. XXIII. OF 1843.

Passed by the Right Honourable the Governor-General of India in Council  
on the 18th November 1843.

**AN ACT** for amending the Law relating to the Jurisdiction of the Zillah Courts in the Provinces ceded by the Nawaub Vizier, and in some other Places.

Whereas by section 12 of Regulation II. of 1803, of the Bengal Code, it was, amongst other things, provided, that the zillah courts in the provinces ceded by the Nawaub Vizier to the Honourable the East India Company, should not entertain any suit whatever against any individual actually resident, or being within the limits of the town of Calcutta; unless such suit should relate to real property situated without the limits of Calcutta, or to the public revenue :

And whereas so much of the said regulation as is hereinbefore recited has been extended by other regulations to other provinces, zillahs and pergunnahs :

And whereas the provisions of the hereinbefore recited part of the said Regulation are inconvenient :

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It is hereby enacted, that so much of the said Regulation as is hereinbefore recited be repealed, as well with regard to the provinces ceded by the Nawab Vizier to the East India Company, as to the other provinces, zillahs and pergunahs to which it may have been extended.

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ACT No. XXIV. OF 1843.

Passed by the Right Honourable the Governor-General of India in Council  
on the 18th November 1843.

AN ACT for the better Prevention of the Crime of Dacoity.

Whereas it has been considered necessary to adopt more stringent measures for the conviction of professional dacoits, who belong to certain tribes, systematically employed in carrying on their lawless pursuits in different parts of the country, and for this purpose to extend the provisions of Acts XXX. of 1836, XVIII. of 1837, and XVIII. of 1839, for the prevention of thuggee, to persons concerned in the perpetration of dacoity.

I. It is hereby enacted, that whosoever shall be proved to have belonged, either before or after the passing of this Act, to any gang of dacoits, either within or without the territories of the East India Company, shall be punished with transportation for life, or with imprisonment for any less term with hard labour.

II. And it is hereby enacted, that any person accused of the offence of dacoity with or without murder, or of having belonged to a gang of dacoits, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by dacoity, may be committed by any magistrate within the territories of the East India Company, and may be tried by any court which would have been competent to try him if his offence had been committed within the zillah where that court sits.

III. And it is hereby enacted, that no court shall, on trial of the offences specified in this Act, require any futwa from any law officer.

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ACT No. XXV. OF 1843.

Passed by the Right Honourable the Governor-General of India in Council  
on the 23d November 1843.

AN ACT for making the Provisions of 5 & 6 VICT., c. 47, sec. 11, applicable to India.

Whereas doubts have arisen as to whether so much of an Act passed in the fifth and sixth years of the reign of Her Majesty Queen VICTORIA, intituled, "An Act to amend the Laws relating to the Customs," as provides, "that from and after the 5th day of January 1843, any articles of foreign manufacture, and any packages of such articles imported into the United Kingdom, or into the British possessions abroad, bearing any names, brands or marks purporting to be the names, brands or marks of manufacturers resident in the United Kingdom, shall be forfeited," is applicable to the territories subject to the Government of the East India Company:

It is hereby enacted, that from and after the 1st day of May 1844, any articles of foreign manufacture, and any packages of such articles, imported into the territories subject to the government of the said company, bearing any names, brands or marks, purporting to be the names, brands or marks of manufacturers resident in the United Kingdom, shall be forfeited.

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— of principal sudder ameens, sudder ameens and moonsiffs shall be written in their own language, and then translated in the language used in the court - - -	"	III.	
Decrees, execution of, passed by judges and principal sudder ameens in appeal from decision of sudder ameens and moonsiffs. <i>See</i> Sudder Ameens and Moonsiffs.			
— of the Sudder Adawlut in the Madras Presidency, the execution of, may be referred by the zillah courts to the subordinate judges and the principal sudder ameens - - -	VII.	XIV.	
— in Company's courts of justice; language in which they are to be written. <i>See</i> Decisions.			
Deputy collector under Regulation IX. 1833; no native or natural-born subject of Her Majesty within the Company's territories by reason of religion, place of birth, descent or colour disabled from serving as - - -	XV.	VI.	
Deputy magistrates, uncovenanted, employment of. <i>See</i> Uncovenanted Deputy Magistrates.			
Duties of customs; rates of, to be levied upon import of salt into the north-western provinces, and on its transmission to the east of Allahabad; and on cotton cleaned and uncleaned; also on the export of sugar, refined and unrefined; import of sugar into the north-western provinces to remain prohibited - - -	XIV.	II.	
— government of the north-western provinces may issue orders for the collection of; in such manner, on such lines and at such places as may be expedient - - -	"	III.	
— articles imported or exported without payment of, or contrary to the orders of government, shall be seized and confiscated, with their respective conveyances - - -	"	VI.	
— evasion of payment of, or acting contrary to the provisions of this Act or order of government, how punishable -	"	VII.	
Duties; carriages and conveyances and packages may be searched upon suspicion - - -	"	VIII.	
— collectors of land revenue and customs, or their deputies, shall report seizures of articles to the revenue commissioner, who shall dispose of the case as he may think fit - - -	"	IX.	
— customs officers may make over to the magistrates for trial persons suspected of being liable to punishment under this Act -	"	X.	
— customs officers searching conveyances or packages, or apprehending persons without reasonable grounds, how punishable -	"	XI.	
— magistrates shall try persons made over to them under this Act, and their sentences shall be open to appeal, as in ordinary cases - - -	"	XII.	
— officers of police and land revenue required to assist the customs officers - - -	"	XIII.	
— Act not applicable to the Saugor and Nerbudda territories or districts of Ajmere - - -	"	XIV.	
E.			
Emigration of labourers to Mauritius confined to the port of Calcutta, for securing a larger proportion of female emigrants - - -	XXI.	I.	
— Government of India may appoint a protector of emigrants at Calcutta, who shall countersign certificates from the agent appointed by the Mauritius Government of persons engaged as emigrants - - -	"	II.	
Europeans, trial of, for offences committed within the jurisdiction of principal sudder ameens, in the Madras Presidency. [ <i>See</i> Session Judge] - - -	VII.	XLIII.	
Execution of decrees passed by judges or principal sudder ameens, in appeal from decision of sudder ameens and moonsiffs. [ <i>See</i> Sudder Ameens and Moonsiffs.]			
— of decrees of the Sudder Adawlut in the Madras Presidency. [ <i>See</i> Decrees.]			
— of decisions of district Punchayets. <i>See</i> Punchayets.			

	ACT.	SECTION.	CLAUSE.
Execution of decrees of the Special Commissioners appointed to dispose of cases pending on the abolition of the provincial courts of appeal in the Madras Presidency, and of the provincial courts for which process was not issued. [See Appeals] - - -	VIII.	VI.	
F.			
Foreign articles bearing names, marks or brands, of British manufacturers, imported into the Company's territories, shall be forfeited - - -	XXV.		
Foujdaree Adawlut, a single judge of, may reverse the proceedings of any inferior court, provided the reversal be in favour of the accused - - -	VII.	XXXIII.	
_____ if a single judge concur with the session judge, whether for conviction or acquittal, he may pass a final sentence, except for capital punishment - - -	"	XXXIV.	
_____ on a review of the abstract statement of prisoners punished without reference, may mitigate the sentence passed by session judges which may appear illegal or too severe, and may annul sentences which may be opposed to regulations in force -	"	XXXV.	
G.			
Governor-General may exercise powers of the Governor-General in Council during his absence from Calcutta, except making laws and regulations - - -	XX.	I.	
_____ Act when to take effect - - -	"	II.	
H.			
Hereditary officers under the Bombay Presidency, employed in any department of the administration of the country, shall render their services to the collector or other officer under whose control they may be placed - - -	XI.	"	
_____ when duties of, fall in more than one department, Government shall prescribe under whose control they shall be placed - - -	"	III.	
_____ under the Bombay Presidency, selection of; how to be made when their duties are to be performed in rotation by different sharers - - -	"	IV.	
_____ controlling officer may refuse to confirm the nomination by the sharers of any individual; appeal against such decisions shall lie to the Government - - -	"	V.	
_____ officiating, may be punished by controlling officers for misconduct or neglect of duty, and in what manner - -	"	VI.	
_____ officiating may, after due investigation, be dismissed by controlling officers for misconduct or incompetency, subject to the approval of the Government - - -	"	VII.	
_____ in holding an investigation as above, the controlling officer shall have the power of a magistrate - - -	"	VIII.	
_____ being convicted of any criminal offence, Government may direct confiscation of the wuttun, and appoint persons for the performance of their duties; the surplus proceeds of the wuttun how to be disposed of - - -	"	IX.	
_____ duties of shall not be performed by females in person - - -	"	X.	
_____ when disqualified from acting themselves may appoint deputies, and in default of their so doing, the controlling officer may appoint - - -	"	XI.	
_____ deputies shall be subject to the same rules and penalties as their principals, and if deputies appointed by the hereditary officers are convicted, the wuttun of office shall be confiscated - - -	"	XII.	
_____ in the Bombay Presidency; right of sharers to participate in the rents and profits of any hereditary office, provisions being made for the fit maintenance of the officiating hereditary officer - - -	"	XIII.	
_____ fit remuneration may be assigned to deputies appointed by controlling officers from the profits of the office -	"	XIV.	
_____ applicability of the terms "hereditary district or village office or officers," or "hereditary district village revenue office or officers" - - -	"	XV.	
I.			
Inquiries into the public conduct of officers within the Madras Presidency not removable without the sanction of Government, and subject to the courts of Sudder and Foujdaree Adawlut, or the Board of Revenue; what preliminary steps shall be taken by the court or board before making - - -	XIII.	II.	

	ACT.	SECTION.	CLAUSE.
Inquiries into charges against such officers to be preferred by the complainant to the sudder court or the board of revenue, who may call for explanations from the accused party - - - - -	XIII.	III.	
charges may also be made before any judge, magistrate or collector, who shall send depositions of the complainant to the sudder court and the board of revenue, as the case may be -	"	IV.	
charge not admissible unless made upon oath - - - - -	"	V.	
sudder court and the board may dismiss the charge if they do not see sufficient reason for entering into the inquiry, notifying such dismissal to the Government - - - - -	"	VI.	
sudder court and board may require the complainant to furnish security for prosecuting the charge to a conclusion -	"	VII.	
the sudder court and board may institute inquiries into matters implicating the conduct of public officers appearing in the course of any proceedings before them, for reporting to the Government, although no charge be preferred - - - - -	"	VIII.	
if deemed necessary, Government may appoint commissioners for making a regular inquiry - - - - -	"	IX.	
such commissioner to be placed under what control - - - - -	"	X.	
form of oath to be taken by the commissioners - - - - -	"	XI.	
Government to decide whether the prosecution shall be conducted by the accuser or the Government - - - - -	"	XII.	
forms of procedure of the commission - - - - -	"	XIII.	
commissioner to be vested with the power of zillah courts, except in certain respects, as mentioned - - - - -	"	XIV.	
both the accused and accuser may record their respective remarks and observations at the close of the evidence for the prosecution and defence - - - - -	"	XV.	
after the conclusion of the proceedings, commissioners shall submit them to the Government, or the controlling court or board, as the case may be, with their own opinion - - -	"	XVI.	
Government or controlling court or board may call for further evidence and explanation - - - - -	"	XVII.	
the court or board, after receipt of the commissioner's report, shall submit the proceedings to the Government, with their own opinion as to what charges have been established -	"	XVIII.	
on a special commission being appointed, Government shall decide whether the accused officer shall be suspended from office, and whether he shall draw his allowances or not - -	"	XIX.	
on consideration of the proceedings, Government will pass such decision as may appear consistent with its power, and if necessary instruct its law officers to prosecute the accused before a court of law; aggrieved parties may at all times seek redress by law against the accused - - - - -	"	XX.	
J.			
Jail, Zillah, in the Madras Presidency shall be placed under the session judge, under what circumstances - - - - -	VII.	XLVII.	
to be placed under the charge of the judge of the subordinate criminal court, under what circumstances - - - - -	"	XLIX.	
Judicial system of the Madras Presidency modified. See Courts.			
Justice, administration of civil and criminal, in the districts of Kurnool and Bunganapilly, in the Madras Presidency. See Kurnool.			
Justice of the peace in the Mofussil, law concerning appeals from, amended. [See Appeals] - - - - -	IV.		
K.			
Kurnool and Bunganapilly in the Madras Presidency, administration of civil and criminal justice and police and superintendence of all revenue affairs in the districts of, may be vested in an agent and his assistants - - - - -	X.	I.	
Government may prescribe rules for guidance of agent and his subordinates, and fix the limit of the agent's final civil jurisdiction, and of appeals to the Sudder Adawlut; and may define his authority in criminal trials, and what cases shall be submitted to the Foujdaree Adawlut - -	"	II.	
on trials referred, Foujdaree Adawlut shall pass judgment or order as in cases from a judge of circuit -	"	III.	
civil appeals to be decided by Sudder Adawlut as appeals from provincial courts - - - - -	"	IV.	
Government may alter the limits of the agent's jurisdiction - - - - -	"	V.	

	ACT.	SECTION.	CLAUSE.
L.			
Lands in the Mofussils of Bengal, Madras and Bombay, registration of the conveyances of, regulated [See Conveyances] - - -	I.		
Language in which decisions of Company's courts of justice shall be recorded. See Decisions.			
Law officers to the zillah courts in the Madras Presidency [See Courts] - - - - -	VII.	LI.	
M.			
Magistrates, law concerning appeals from, acting under stat. 53 Geo. 3, c. 155, amended. See Appeals.			
— and their assistants in the Madras Presidency may be prosecuted under Section XLIII. Regulation IX. 1816, in the zillah courts - - - - -	"	XXXVIII.	
— and their assistants to be reported to the Foujdaree Adawlut by the session judge for any neglect or delay on their part by which the course of justice has been impeded - -	"	XLI.	
— in the Madras Presidency, the powers of, under Regulation IX. of 1816, extended - - - - -	"	LIV.	1st.
— may exercise the powers of criminal judges, as under Section VII. Regulation X. of 1816 - - - - -	"	"	
— what shall be the form of their procedure in such case -	"	"	2d.
— appeals from the sentence or orders of, may be preferred to session judges in such cases - - - - -	"	LV.	
Mauritius, emigrants to. See Emigration.			
Moonsiffs, such parts of Regulation XXIII. 1814, Bengal Code, as prohibit, from requiring security from defendants attaching their property or realizing fines, repealed - - - - -	VI.	III.	
— may demand security from the defendants, under Sections IV. and V. Regulation II. 1806, and realize fines imposed by them - - - - -	"	IV.	
— shall execute decrees of the judges or principal sudder ameens, in appeals from their decisions; applications for such executions where to be made; judge's decision, in appeals from the orders of moonsiffs in such cases, to be final - - -	"	V.	
— no person, by reason of place of birth or descent, shall be exempted in civil proceedings from the jurisdiction of - -	"	VII.	
— may receive and try suits of every description, under the restrictions as in clauses I. II. and III. Section V. Regulation V. 1831, except in cases mentioned - - - - -	"	VIII.	
— may receive and forward to the judge cases which it may be objectionable for him to try, for reasons stated, in order that the judge may refer them to another moonsiff - - - - -	"	IX.	
— in the Madras Presidency may be employed by subordinate judges, principal sudder ameens, and judges of zillah courts, for purposes mentioned in Sections LX. and LXI. Regulation VI. 1816 - - - - -	VII.	XVII.	2d.
— cases pending before, may be called up under Section LIV. Regulation VI. 1816, by the zillah judge, and referred to other courts, as mentioned - - - - -	"	XVIII.	
— suits forwarded to the zillah judge by, Clause 2d, Section III. Regulation I. 1829, in which they may be interested, how to be disposed of - - - - -	"	XIX.	
— civil actions and criminal prosecutions under Clause 1, and Section VIII. Regulation VI. 1816, with respect to district, shall be brought before the zillah courts - - - - -	"	XXIII.	
N.			
Nawab Vizier, law relating to the jurisdiction over residents of the town of Calcutta, of the zillah courts in the provinces ceded to the Company by the, amended - - - - -	XXIII.		
O.			
Officers, European, and others within the Madras Presidency, not removable without the sanction of Government, inquiries into the public conduct of. See Inquiries.			
P.			
Police, dismissal of native officers of, by the Foujdaree Adawlut for misconduct - - - - -	VII.	XXXIX.	1st.
— superintendence of, in the districts of Kurnool and Bungana-pilly, in the Madras Presidency. See Kurnool.			
Principal Sudder Ameens shall be guided in the decision of original suits by the rules of the judges' courts - - - - -	VI.	I.	

	ACT.	SECTION.	CLAUSE.
Principal Sudder Ameens, section IV. Act XXV. 1837, shall extend to interlocutory orders, in cases appealed from the decision of -	VI.	II.	
in the Madras Presidency how to act, in cases where he has to call upon collectors or other European officers in matters before their courts - - - - -	VII.	VII.	1st.
shall take what course, if such officers do not comply with their requisitions - - - - -	"	"	2d.
may confirm the decision of inferior courts if there be no sufficient ground for impugning its correctness, without reference to the order of the file, or requiring the attendance of the opposite party; or may refer it back for revision to the court whose order is appealed against - - - - -	"	XI.	
may commit to the session judge prisoners brought before them charged with crimes subject to his jurisdiction [See Session Judges] - - - - -	"	XXIX.	
may communicate directly with the district police officers for obtaining evidence in cases of prisoners forwarded by them - - - - -	"	XLII.	
trial of Europeans and Americans, for offences committed within the jurisdiction of [See Session Judges] - - - - -	"	XLIII.	
European, at Cochin, may exercise all the powers of a criminal court constituted under Regulation II. 1827, and of a joint magistrate - - - - -	"	XLVII.	
Processes of the Sudder Adawlut in the Madras Presidency, described in Sections XIII. and XIV. of Regulation V. of 1802, to be directed to the zillah courts - - - - -	"	XIII.	
all other, of the said court by whom to be served - - - - -	"	XV.	
Property subject to any trust vested in registrar of the supreme court, when trustees to such property are incapable of acting as such. See Trustee.			
Provinces ceded by the Nawaub Vizier, law relating to the jurisdiction of zillah courts in the, and other zillah courts over persons residing in Calcutta, amended - - - - -	XXIII.		
Provincial courts of appeal and circuit in the Madras Presidency abolished, and new zillah courts established instead [See Courts] - - - - -	VII.	I.	
criminal cases pending before, at the time of their abolition how to be disposed of - - - - -	"	LVI.	
courts of appeal in the Madras Presidency, disposal of cases pending before, on the date of their abolition. [See Appeals and Suits] - - - - -	VIII.		
Punchayets, applications for the execution of decisions of district, may be referred by zillah judges to subordinate judges and principal sudder ameens - - - - -	"	XX.	
R.			
Registrar of supreme court vested with the administration of trust property, when the trustee of such property is incapable of acting. See Trustee - - - - -			
Registration* of conveyances of lands within the mofussils of Bengal, Madras and Bombay, regulated - - - - -	I.		
of deeds of sale, gift or mortgage, law respecting, amended for removing doubts as to their authenticity - - - - -	XIX.	II.	
confined to particular conveyances or instruments affecting title to land - - - - -	"	III.	
Regulations of the Bengal, Madras or Bombay Codes, touching the invalidity of conveyances affecting titles to lands, owing to the knowledge by parties registering such conveyances of the existence of an unregistered conveyance of the same, repealed. See Conveyances.			
Regulation XXV. 1814, Bengal Code, Section XVI. of, modified [See Appeals] - - - - -	II.		
V. 1831, Bengal Code, Clause IV. Section XVIII. of, modified - - - - -	VI.	I.	
XXIII. 1814, Bengal Code, parts of, repealed - - - - -	"	III.	
II. 1806, Bengal Code, Sections IV. and V. of, extended to sudder ameens and moonsiffs - - - - -	"	IV.	
V. 1831, Bengal Code, Section XXII. of, modified - - - - -	"	V.	
XXIII. 1814, Bengal Code, Clause IV. Section XIII. of, repealed - - - - -	"	VI.	
V. 1831, same Code, Clause IV. Section V. of, repealed - - - - -	VII.	V.	
VII. 1827, Madras Code, Section VII. of, rescinded - - - - -	"	VII.	
Ditto, ditto, ditto, Section IX. of, modified - - - - -	"		

\* Repealed by Act XIX. of 1843.



	ACT.	SECTION.	CLAUSE.
Regulations of the Madras Code, requiring inferior courts to furnish the Sudder Adawlut with translations of papers, rescinded -	VII.	XII.	
Regulation V. of 1802, Madras Code, Sections XIII. and XIV. of, modified -	"	XIII.	
III. 1833, same Code, Section VI. of, modified -	"	XVI.	
VI. and VII. of 1816, all parts of, in which zillah judge is mentioned shall be applicable to zillah courts, excepting Sect. LVI. Regulation VI. 1816, which shall be applicable to subordinate judges and principal sudder ameen, as extended by Sect. V. Regulation III. of 1833, of the same Code -	"	XVII.	1st.
VI. of 1816, same Code, all parts of, in which provincial court is mentioned, shall be applicable to Sudder Adawlut -	"	"	
VIII. 1816, same Code, Section III. of, rescinded -	"	XXIV.	
VIII. 1816, same Code, Section XIV. of, modified -	"	XXV.	
XIII. 1832, same Code, Section II. of, rescinded -	"	XXVIII.	
X. 1816, same Code, Clauses I. and III. Section IX. of, modified -	"	XXIX.	
III. 1833, of the same Code, Section II. of, modified -	"	XXXVI.	
Section XXVI. Regulation X. 1816, Clauses II. and III. Section IV. Regulation II. 1822, Clause II. Section V. and Clauses II. and IV. Section VIII. Regulation VI. 1827, Madras Code made applicable to session judges -	"	XXXVII.	
IX. 1816, Madras Code, Section XLIII. of, modified -	"	XXXVIII.	
XIII. 1832, same Code, Section III. of, modified -	"	XXXIX.	
XVI. 1827, Bombay Code, Sections XVII. and XVIII. of, rescinded -	XI.	I.	
III. 1809, II. 1810, VI. 1818, and VIII. 1822, Madras Code, repealed -	XIII.	"	
XVI. 1829, Act II. 1838, and so much of Regulation IX. 1810, and other Regulations and Acts as affect Customs duties or manufacture of salt in the North-Western Provinces of the Bengal Presidency, repealed -	XIV.	"	
IX. 1808, Bengal Code, Sections II. and III. of, and Regulation XVI. 1810, Sections XVI. and XVII. of, respecting the offering of rewards for the apprehension of offenders, repealed -	XVI.	"	
III. 1793, part of Section XVII. of, as relates to the jurisdiction of zillah, 24 pergunnahs, repealed [See Twenty-four-Pergunnahs] -	XXII.		
II. 1803, Bengal Code, Section XII. of, as regards the jurisdiction of zillah courts in the provinces ceded by the Nawaub Vizier to the Company over residents in Calcutta, and other regulations extending the same to other provinces, zillahs and pergunnahs, repealed -	XXIII.		
Revenue, collection and superintendence of, in the districts of Kurnool and Bunganapilly. See Kurnool -			
Rewards, rules respecting the offering of, for the apprehension of offenders, amended -	XVI.		
S.			
Salt, rates of duty on import of, in the North-Western Provinces -	XIV.	II.	
— manufacture of alimentary, throughout the North-Western Provinces of Bengal, without sanction of Government prohibited under penalty -	"	IV.	
— Collector of Customs and Land Revenue may destroy all works for the manufacture of salt, seize the salt and commit the persons concerned to the magistrate -	"	V.	
Session judges in the Madras Presidency shall proceed in what manner in trying prisoners committed before them -	VII.	XXX.	
— to be associated by the Mahomedan law officer of their courts in the trial of prisoners subject to the regulations applicable to law officers sitting with the courts of circuit -	"	XXXI.	
— may avail of the assistance of native assessors or members of their courts, and in what manner -	"	XXXII.	1st.
— the law officer to be one of the assessors or jury -	"	"	2d.
— shall pass the decision according to their own opinion whether they agree with the assessors or not; if they differ, the case to be referred to the Foujdaree Adawlut for confirmation -	"	"	3d.
— may overrule judgments passed by sudder ameen in criminal cases -	"	XXXVI.	
— Section XXIV. Regulation X. 1816, Clauses II. and III. Section IV. Regulation II. 1822, Clause II. Section V., and Clause II. and IV. Section VIII. Regulation VI. 1827, made applicable to -	"	XXXVII.	

	ACT.	SECTION.	CLAUSE.
Session Judges, prosecutions against magistrates and their assistants under Section XLIII. Regulation IX. 1816, shall be instituted in the court of - - - - -	VII.	XXXVIII.	
- - - - - shall notify to the Foujdaree Adawlut the misconduct of native police officers noticed by them in a case investigated by themselves, or by subordinate judges or principal sudder ameens - - - - -	"	XXXIX.	1st.
- - - - - shall furnish a copy of their report to the magistrate, and the Foujdaree Adawlut shall pass a final order on receipt of the magistrate's answer - - - - -	"	"	2d.
- - - - - shall notify to the magistrate any minor offences of subordinate officers of police, and record such notifications in the periodical returns to the Foujdaree Adawlut - - - - -	"	XL.	
- - - - - shall notify to the Foujdaree Adawlut any neglect of the magistrate or his subordinate officers, by which the course of justice has been impeded - - - - -	"	XLI.	
- - - - - may communicate directly with the district officers of police for obtaining evidence in cases of prisoners forwarded by them - - - - -	"	XLII.	
- - - - - may try Europeans and Americans for offences committed within the jurisdiction of the principal sudder ameen, and not punishable by the magistrate - - - - -	"	XLIII.	
- - - - - may take cognizance of criminal cases subject to the jurisdiction of the subordinate courts and their own, and sent by the magistrate - - - - -	"	XLIV.	
- - - - - may exercise the criminal jurisdiction of subordinate courts constituted under Regulations I. and II. or VII. and VIII. 1827 - - - - -	"	XLV.	
Single Judge of the Foujdaree Adawlut, power of, in the reversal of the decisions of inferior courts. See Foujdaree Adawlut.			
Slavery, sale of persons in execution of decrees or on account of demand of revenue, and the right to the compulsory labour of persons on the ground of, prohibited - - - - -	V.	I.	
- - - - - right of property in the person and services of another as a slave not to be enforced by any civil or criminal court - - - - -	"	II.	
- - - - - property acquired by slaves protected - - - - -	"	III.	
- - - - - penal offences done to slaves how cognizable - - - - -	"	IV.	
Special Appeals. See Appeals.			
- - - - - commissioners to be appointed for the disposal of cases pending before the late provincial courts in the Madras Presidency. See Appeals and Suits.			
Stolen property, persons accused of receiving from others concerned in dacoities committed within or without the Company's territories, how punishable. See Dacoits.			
Subordinate judges in the Madras presidency may confirm the decision of lower courts, or refer it back to the court whose order is appealed against - - - - -	VII.	XI.	
- - - - - may employ district moonsiffs for the purposes specified in Sections LX. and LXI., Regulation VI. 1816 - - - - -	"	XVII.	2d.
- - - - - may commit to the session judge prisoners brought before them charged with crimes subject to his jurisdiction - - - - -	"	XXIX.	
- - - - - may communicate directly with district police officers for obtaining evidence in cases of prisoners forwarded by them - - - - -	"	XLII.	
- - - - - officers appointed to zillah courts. See Courts.			
Sudder Ameens, parts of Regulation XXIII. 1814, Bengal Code, which prohibit from requiring security from defendants, or attaching their property or realizing fines, repealed - - - - -	VI.	III.	
- - - - - may demand security from defendants under Sections IV. and V. Regulation II. 1806, and realize fines imposed by them - - - - -	"	IV.	
- - - - - shall execute decrees of the judges or principal sudder ameens in appeals from their decisions, applications for such executions where to be made, judge's decision in appeals from the orders of the moonsiffs in such cases to be final - - - - -	"	V.	
- - - - - the power of suspending, vested in zillah courts in the Madras Presidency - - - - -	VII.	XVI.	
- - - - - in the Madras Presidency, civil and criminal actions under Clauses I. and II. Section VIII. Regulation VI. 1816 as extended by Section XIII. Regulation VIII. 1816 with respect to sudder ameens, shall be brought before the zillah courts - - - - -	"	XXIII.	

	ACT.	SECTION.	CLAUSE.
Sudder Ameens may order execution of decisions passed by them, and issue all process relative to proceedings before them, and may realize fines - - - - -	VII.	XXV.	
— at detached stations may receive and dispose of civil suits within his jurisdiction without the intervention of the zillah judge, as also criminal cases sent by the police - - -	"	XLVI.	
— the zillah gaol shall be under the, when the subordinate criminal court is constituted according to Regulation VIII of 1827 - - - - -	"	XLVIII.	
— when placed under subordinate criminal court, the gaol to be visited by - - - - -	"	XLIX.	
Sudder Dewanny Adawlut, how shall a single judge of act when of opinion that the decision appealed from should be reversed or altered. See Appeals.			
Sudder Adawlut at Madras, appeals from orders of zillah courts to lie to - - - - -	"	IX.	
— a single judge of competent to hold sittings and pass orders on all matters - - - - -	"	X.	1st
— he may confirm the decision of any inferior court, or refer it back to the court the order of which is appealed against - - - - -	"	"	2d
— he may call for proceedings or explanations of the lower courts before deciding a case of appeal - - -	"	"	3d
— he may stay the execution of the order of any inferior court until the passing of a final decision - - -	"	"	4th
— shall no longer be furnished by inferior courts with translations of papers in cases of appeals - - -	"	XII.	
— processes issued from the, under sections XIII. and XIV. Regulation V. of 1802, to be directed to the zillah courts - - - - -	"	XIII.	
— execution of the decrees of, may be referred by the zillah courts to the subordinate judges or principal sudder ameens - - - - -	"	XIV.	
— processes issued by, by whom to be served - - - - -	"	XV.	
— all parts of Regulation VI. of 1816, Madras Code, in which provincial court is mentioned, shall be applicable to - - - - -	"	XVII.	1st
Sugar, refined and unrefined, rates of duty on, exported from the North-Western Provinces of Bengal - - - - -	XIV.	II.	
— imported into the said provinces to be seized and confiscated - - - - -	"	VI.	
Suits, original, principal sudder ameens shall be guided by what rules in the decision of - - - - -	VI.	I.	
— pending before provincial courts of appeal in the Madras Presidency on the date of their abolition, how to be disposed of - - - - -	VIII.		
Supreme Court may appoint the registrar or any other officer of such court to act as trustees of any property subject to trust, when the trustee of such property is incapable of acting as such. See Trustee.			
T.			
Thuggee, persons sentenced to imprisonment or transportation for, or dacoity, by courts within the territories of native states in alliance with the Company may be kept in custody within the Company's territories; a covenanted officer of the Company to be one of the presiding judges at the trial of such offenders [See Dacoity] - - - - -	XVIII.		
Translations of papers in the vernacular languages not required to be furnished by the inferior courts in the Madras Presidency to the Sudder Adawlut in appeal and other cases - - - - -	VII.	XII.	
Trustee, Supreme Court may appoint the registrar or other officer of such court to act as official in cases of trust property, when the trustee is incapable of acting as such - - - - -	XVII.	I.	
— the property, how to be invested, and the officer entitled to what commission - - - - -	"	II.	
— Supreme Court may make orders on petitions respecting such property, or the interest thereof - - - - -	"	III.	
— property may be re-transferred to the original or subsequently appointed trustees - - - - -	"	IV.	

	ACT.	SECTION.	CLAUSE.
Trustee, parties may pay to the official trustee gifts and legacies due to infants or lunatics - - - - -	XVII.	V.	
— provisions of this Act, except as regards the rate of commission, shall extend to any property of infants or lunatics in the hands of the ecclesiastical registrar - - - - -	- - -	VI.	
Twenty-four Pergunnahs; law relating to the jurisdiction of zillah, as regards persons residing in Calcutta, against whom suits have been instituted there, amended - - - - -	XXII.		
U.			
Uncovenanted Deputy Magistrates, government of Bengal and North-Western Provinces may appoint in any district one or more -	XV.	I.	
— shall make a declaration before taking charge of office -	"	II.	
— definition of duties and powers of - - - - -	"	III.	
— officers in the revenue and judicial department may hold the office of, with any other - - - - -	"	IV.	
— not dismissible without the sanction of government; magistrates shall report to government when a deputy magistrate is found disqualified, and the government shall suspend or dismiss him, as may be proper - - - - -	"	V	
— no native or natural-born subject of Her Majesty within the Company's territories, by reason of religion, place of birth, descent or colour disabled from serving as deputy collector under Regulation IX. of 1838. - - - - -	XV.	VI.	
V.			
Vakeels in the zillah court in the Madras Presidency. <i>See Courts.</i>			
Vernacular language of the presiding officer of the Company's courts of justice shall be used in writing his decisions. <i>See Decisions.</i> -			
Z.			
Zillah Courts. <i>See Courts.</i>			

EAST INDIA.

COPY of the ACTS passed by the Honourable the President of the Council of *India*, and by the Right Honourable the GOVERNOR-GENERAL, in Council, for 1843; with INDEX.

(Presented pursuant to Act of Parliament.)

Ordered, by The House of Commons, to be Printed,  
28 May 1845

[*Price 6d.*]

328.

*Under 8 os.*

## EDUCATION (INDIA).

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### PAPERS ON EDUCATION IN INDIA.

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*Ordered, by The House of Commons, to be Printed, 21 February 1845.*

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— No. 695. —

From *C. Beadon*, Esq. Under-Secretary to the Government of Bengal, to  
the Secretary to the Council of Education.

Sir,

Fort William, 10 October 1844.

I AM directed to forward copy of a Resolution passed by the Right honourable the Governor of Bengal, to which, with the permission of the Council, you are requested to give effect.

2. I am also directed to request, that the returns may be prepared with the greatest care, and that as they will afford the only means by which the officers of Government can judge of the fitness of the student for any particular situation, they may include only the names of such as, in the opinion of the Council, are really qualified for employment.

3. In regard to the returns which it is probable will be furnished to the Council by private schools, it will be necessary, his Excellency considers, to exercise the utmost circumspection as to the character of each institution, the plan on which it is managed, and the principle on which the returns may have been drawn out. It may also appear to the Council advisable to require, in some instances, that the institution from which returns are forwarded, shall consent to receive periodical visits either from their secretary, or from the Inspector of Colleges and Schools in the Lower Provinces.

I have, &c.

(signed) *C. Beadon*,  
Under-Secretary to the Government of Bengal.

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#### RESOLUTION OF THE 10TH OCTOBER 1844.

THE Governor-general having taken into his consideration the existing state of education in Bengal, and being of opinion that it is highly desirable to afford it every reasonable encouragement, by holding out to those who have taken advantage of the opportunity of instruction afforded to them, a fair prospect of employment in the public service, and thereby not only to reward individual merit, but to enable the State to profit as largely, and as early as possible, by the result of the measures adopted of late years for the instruction of the people, as well by the Government as by private individuals and societies, has resolved that in every possible case a preference shall be given, in the selection of candidates for public employment, to those who have been educated in the institutions thus established, and especially to those who have distinguished themselves therein by a more than ordinary degree of merit and attainment.

2. The Governor-general is accordingly pleased to direct, that it be an instruction to the Council of Education and to the several local committees and other authorities charged with the duty of superintending public instruction throughout the provinces subject to the Government of Bengal, to submit to that Government at an early date, and subsequently on the 1st January in each year, returns (prepared according to the form appended to this Resolution) of students who may  
60. be

be fitted, according to their several degrees of merit and capacity, for such of the various public offices as, with reference to their age, abilities, and other circumstances, they may be deemed qualified to fill.

3. The Governor-general is further pleased to direct that the Council of Education be requested to receive from the governors or managers of all scholastic establishments, other than those supported out of the public funds, similar returns of meritorious students, and to incorporate them, after due and sufficient inquiry, with those of the government institutions; and also that the managers of such establishments be publicly invited to furnish returns of that description periodically to the Council of Education.

4. The returns, when received, will be printed and circulated to the heads of all government offices, both in and out of Calcutta, with instructions to omit no opportunity of providing for and advancing the candidates thus presented to their notice; and in filling up every situation, of whatever grade, in their gift, to show them an invariable preference over others not possessed of superior qualifications. The appointment of all such candidates to situations under the Government will be immediately communicated by the appointing officer to the Council of Education, and will by them be brought to the notice of Government and the public in their annual reports. It will be the duty of controlling officers, with whom rests the confirmation of appointments made by their subordinates, to see that a sufficient explanation is afforded in every case in which the selection may not have fallen upon an educated candidate whose name is borne on the printed returns.

5. With a view still further to promote and encourage the diffusion of knowledge among the humbler classes of the people, the Governor-general is also pleased to direct, that even in the selection of persons to fill the lowest offices under the Government, respect be had to the relative acquirements of the candidates, and that, in every instance, a man who can read and write be preferred to one who cannot.

Ordered, That the necessary instructions be issued for giving effect to the above Resolution, and that it be published in the official gazettes for general information.

### FORM.

#### RETURN of STUDENTS qualified for the Public Service.

Name of Candidate.	Age.	Residence, District, Pergunnah, and Village.	Institution at which Educated.	Extent of Acquirement.	Character and Abilities.	Class attained, and Honorary Distinctions and Tokens of Merit acquired.	Remarks.

(True Copies.)

East India House, }  
13 February 1845. }

*T. L. Peacock,*  
Examiner of Indian Correspondence.





P A P E R S

ON

EDUCATION IN INDIA.

*(Presented to Parliament by Her Majesty's Command.)*

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*Ordered, by The House of Commons, to be Printed,  
21 February 1845.*

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60.

*Under 1 oz.*

## EDUCATION (INDIA).

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RETURN to an ORDER of the Honourable The House of Commons,  
dated 10 March 1845;—for,

A COPY “ of the ORDERS of the Government of *India* for the Establishment of the COUNCIL OF EDUCATION in *Bengal*, and at the other Presidencies.”

“ Also, RETURN of the Establishments maintained in 1843 for the Promotion of Education amongst the Natives of *British India*, and the Salaries and Expense of the same;—Also, a STATEMENT of the Funds supplied by the *Indian* Government, and from other Sources, for the Support of Education in *British India*, and the Expenditure of the same, under separate Heads, at each of the several Presidencies.”

(*Mr. Hume.*)

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*Note.*—This is not a perfect Return to the Order. That part of it which calls for “ A Return of the Establishments maintained in 1843 for the Promotion of Education amongst the Natives of British India, and the Salaries and Expense of the same;—Also, a Statement of the Funds supplied by the Indian Government, and from other Sources, for the Support of Education in British India, and the Expenditure of the same, under separate heads, at each of the several Presidencies,” cannot be supplied from the documents in this House, but has been required from the Government of India.

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East India House, }  
11 April 1845. }

JAMES C. MELVILL.

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Ordered, by The House of Commons, to be Printed,  
14 April 1845.

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East India House,  
11 April 1845. }

T. L. Peacock,  
Examiner of India Correspondence.

**COPY of the ORDERS of the Government of *India* for the Establishment of the COUNCIL OF EDUCATION in *Bengal*, and at the other Presidencies.**

**FORMATION OF THE COUNCIL OF EDUCATION AT BENGAL.**

**EXTRACT BENGAL REVENUE CONSULTATIONS, 17 July 1823.**

**RESOLUTION.—(Extract.)**

In pursuance of the intention already announced in the orders passed on the Report recently received from the Madrisa Committee, the Governor-general in Council resolves that there shall be constituted a general committee of public instruction, for the purpose of ascertaining the state of public education in this part of India, and of the public institutions designed for its promotion, and of considering, and from time to time submitting to Government the suggestion of such measures as it may appear expedient to adopt, with a view to the better instruction of the people, to the introduction among them of useful knowledge, and to the improvement of their moral character.

2. The Governor-general in Council is also pleased to resolve, that the correspondence of Government with the committee to be appointed as above, and with the other committees which may be maintained for the management of individual institutions, shall be henceforth conducted by the Persian secretary to Government.

3. To that officer, therefore, the detailed instructions of Government relative to the constitution and duties of the committee to be appointed as above, to the alterations which it may consequently become expedient to make in the constitution and functions of the several existing committees, to the mode in which the correspondence of Government on the subject of public education is to be brought on the records, will be communicated.

4. The Governor-general in Council deems it sufficient to record in this department his resolution, subject of course to the approval of the Honourable the Court of Directors, to appropriate to the object of public education the sum of one lac of rupees per annum, in addition to such assignments as were made by the British Government previously to the Act of the 53d of his late Majesty; and likewise, of course, exclusively of any endowments which may have been or may be made by individuals applicable to a like purpose.

5. Ordered, that the necessary communication be made to the Persian secretary to Government, and that that officer be furnished, from this and other departments, with all necessary papers relating to the subject of public instruction.

Formation of the  
Council of Educa-  
tion at Bengal.

No. 2.  
Resolution, dated  
17 July.

**EXTRACT INDIA PUBLIC CONSULTATIONS, 19 January 1842.**

**No. 5.**

**To General Committee of Public Instruction.**

Hon. Sirs and Gentlemen,

THE departure of Sir Edward Ryan from Calcutta, and the consequent vacancy in the office of president of the Committee of Public Instruction, have induced the Governor-general in Council to re-consider the constitution of your committee and the connexion of the Government with the institutions which have been founded or supported from the public funds for the diffusion of education.

No. 42.

Formation of the  
Council of Educa-  
tion at Bengal.

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2. His Lordship in Council attaches the highest importance to the continued assistance of a body like the committee, composed of the most eminent of the European and native gentlemen at the presidency who take an interest in public education; he is grateful for the services which have been rendered by you, and he earnestly requests that the aid rendered by the members of the committee to the Government in this department may not cease or be interrupted. He feels, however, that the committee might, with advantage to all parties, be relieved from a portion of its duties. The demands made upon the time of some of its members have neither been consistent with convenience nor with what is strictly owing to other public duties; and it is not to be desired that financial details, and the details of an extensive and growing correspondence, should be imposed upon a numerous and irresponsible body, however distinguished that body may be by the character, ability, and station of its members.

3. It is considered desirable to bring the large and increased expenditure on account of those institutions more directly under the control of the Government itself.

4. The Governor-general in Council proposes, upon these grounds, to relieve the committee from some of the duties, for which, from its constitution, it would seem to be least fitted; and in all, his Lordship would endeavour to connect it more closely with the Government.

5. The general and financial business now discharged by the Committee of Public Instruction will be assumed directly by the Government, and the committee will be maintained as a council of education, for purposes of reference and advice upon all matters of important administration and correspondence, (maintaining in a great degree its accustomed care of the institutions at the presidency,) and not as a committee charged with functions of minute executive management.

6. The general correspondence will in this case be undertaken by the secretary to Government in the General Department as soon as an arrangement can be made for that purpose, by the appointment to the department of an efficient deputy, who will be, *ex officio*, secretary of the Council of Education, and of its different sub-committees.

7. It is anticipated that the arrangement now proposed will conduce as much to economy as to promptitude, and to success in the conduct of many of the duties heretofore devolving on the general committee, and will at the same time relieve the committee from labours onerously and inconveniently imposed upon it.

8. As the easiest course for the first adoption of the change, the present secretary of the committee, Dr. Wise, will be pleased to act for a time under the orders of the secretary in this department, until all the measures for the transfer of business, and the appointment of a qualified deputy, can be matured. His Lordship in Council would maintain all the present sub-committees of the Committee of Public Instruction in its new form of a council of education, with their actual duties of examination and report, until experience shall show that any modifications of those duties, or of the number of sub-committees, will be expedient.

9. The Governor-general in Council has been pleased to nominate the Hon. Mr. Bird to be the president to the Council of Education, and of all its sub-committees.

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No. 172.

No. 43.

FORT WILLIAM, General Department, 10 January 1842.

MEMORANDUM.

THE Governor-general in Council having been pleased to resolve that the institutions founded and supported by the Government for the diffusion of education shall be brought more directly under the control of the Government itself, aided by a council of education, composed of the present members of the General Committee of Public Instruction, and such other officers as may from time to time be joined with them, the local committees of the colleges and schools in the two divisions of the Bengal presidency will in future address their reports and references to the secretary in the General Department of the Government of India.

The Governor-general in Council has been pleased to appoint the Honourable Mr.

Mr. W. W. Bird to be president of the Council of Education and of its several sub-committees.

Formation of the Council of Education at Bengal.

These sub-committees are requested to continue in the discharge of their duties of examination and superintendence as at present, being now sub-committees of the Council of Education.

The general and financial business of the department of education will be assumed by the Government, and the Council of Education be maintained for purposes of reference and advice upon all matters of important administration and correspondence, retaining, under the directions of the Government, the supervision now established over the institutions at the presidency.

A deputy secretary will be appointed to the General Department of the Government of India and Bengal, who will be, *ex-officio*, secretary of the Council of Education and of its different sub-committees.

In the meantime Dr. Wise, the present secretary, will be pleased to act under the orders of the secretary in this department until all the measures for the transfer of business and the appointment of a deputy can be matured.

By order of the Right honourable the Governor-general of India in Council.

(signed) G. A. Bushby,  
Secretary to the Government of India.

#### FORMATION OF THE BOARD OF EDUCATION AT MADRAS.

EXTRACT FORT ST. GEORGE PUBLIC CONSULTATIONS, 4 February 1840.

Formation of the Board of Education at Madras.

Read the following Minute by the President, dated 12 December 1839.

#### MINUTE.

Diary, No. 10.

1. No part of our Indian policy exhibits greater improvement and is more honourable to our rule than the attention which has of late years been paid to the subject of the education of the people.

2. Undeterred by the narrow considerations of jealousy and distrust, and by the influence, still more difficult to be overcome, of that prejudice which depreciates the native character, while it adopts one of its worst features, and induces a self-complacent contemplation of European superiority, and a contemptuous apathy to the advancement of the millions by whom we are surrounded, our countrymen have understood the great duty which has devolved upon them, and the Government of British India has not shrunk from taking its part in the task. As long ago as 1770, the first institution founded by the British Government for the education of native youth was established by Mr. Warren Hastings; his example was followed by subsequent Governors-general; but the subject not being properly understood, little advantage was for a long period derived from these attempts. Of late years, however, it has attracted the particular attention of some of the most capable individuals in the country, who, profiting by the experience of the past, have extracted from the imperfect materials before them much useful information. Reasoning from which, and from other contemporary evidence, they have been enabled to lay down upon broad and comprehensive principles the groundwork upon which any system of education, to be generally useful, must be founded.

3. It is, I know, a matter of regret and of reproach to Madras that while so much has been done at the other presidencies, so little has been effected here; but I believe that, if we now thankfully avail ourselves of their experience, we shall keep clear of many difficulties with which they have had to contend, and indeed I hope that we shall be able by exertion and perseverance to regain our proper position, and to compete in the race with our neighbours.

4. The subject has long forced itself upon my attention, and I should ere this have brought it to the notice of the Board, if I had not felt a difficulty in finding that my views were incompatible with the recommendation of the committee of gentlemen

gentlemen who had been appointed to report upon the subject previous to my arrival in this country.

5. This made me pause, and I have endeavoured, by conversation and correspondence with those whom I thought best able to assist me, and by such other means as lay in my power, to make myself better acquainted with the subject. The result has been to confirm me in my first opinion, and I have only to regret the delay which has been occasioned by this circumstance, and by the pressure of other business.

6. I need not go back to the history of the attempts which have been made in the presidency to introduce a general system of education. Sir Thomas Munro has reviewed the state of education up to his time in his Minute of December 1825, and the Minutes of Consultation of the 18th May 1836 succinctly trace all that has been done since that period.

7. These endeavours, having produced nothing but disappointment, were then ordered to be discontinued; a new direction was to be given to our efforts, and the plan which has been found to succeed in Bengal and Bombay was to be introduced, with such modifications as local circumstances might require, at Madras. To suggest the best mode of carrying this resolution into effect, a committee was appointed; and here I must confess, in my humble opinion, was an error; for with the views of the general committee at Calcutta, and of the Supreme Government in our hands, which, founded on experience, contain everything requisite at the outset of our undertaking, I conceive that the initiative ought to have been taken by this Government, who might have proceeded at once to lay down the principles upon which the new system was to be based, the objects chiefly to be kept in sight, and the general outline of the plan.

8. The principal points urged upon our attention by the Supreme Government and the general committee are—

1st. The discontinuance of the system of frittering away the sums allowed for educational purposes upon mere elementary schools and upon eleemosynary scholars.

2d. The establishment of a collegiate institution at the presidency upon the plan of the Hindoo college at Calcutta.

3d. The encouragement of native co-operation and confidence, by joining the most influential and respectable natives with Europeans in the management of the institution.

9. It appears to me that all these essential points have been more or less overlooked by the committee appointed on the 18th of May 1836. Their attention appears to have been almost entirely confined to one point, viz. the establishment of a normal school or class, to obtain which they propose to begin with endowing four elementary schools in different parts of Madras, these to compete with the schools already established by private subscription, and which are either exclusively for Christian children of various denominations, or else intended for the propagation of religious doctrine; the normal class to be engrafted on the best school, whether it be one of the four supported by Government or not.

10. It is plain that this proposition falls far short of the views of the Supreme Government, and of the recommendations of the general committee, if indeed it is not directly opposed to them. The latter doubt the advantage of even two English seminaries at Madras, and advocate a single collegiate institution as the best means of affording facilities of liberal education to the community, and of supplying properly qualified native masters for other schools. But there are other objections to the plan proposed by the Madras committee.

11. The manifest expediency and necessity of carrying the influential portion of the natives along with them seems to have been entirely overlooked. Although permitted to associate with themselves any natives whose co-operation might be deemed useful or desirable, they do not appear to have done so in a single instance. The same disregard of native opinion is apparent in the recommendation to engraft the normal class indifferently upon a missionary or a government school, thus confounding and blending, as it must appear in their eyes, the object of both. Neither does it appear to me the least objectionable part of this proposition that the normal class may thus become a part of an institution, which is not only removed from the control of Government, or of any regularly constituted board or committee for the superintendence of public education, but subject possibly

sibly to influences most distasteful to the natives generally, and which might be fatal to the very object sought.

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tion at Madras.

12. It is not to be expected that we should have the cordial co-operation of the natives of influence and respectability in such a plan as this, and it will not be denied that the success of any plan of national education must, in a great measure, depend upon such co-operation.

13. These are my principal objections to the suggestions of the Madras committee. On the other hand, when I turn to the recommendation of the general committee at Calcutta, and the letter of the Supreme Government, I find that my opinions are perfectly in accordance with them. I consider myself, therefore, justified in making them the basis of the plan which I now intend to propose. If it is objected to it, that this plan is too large, I answer that it has been purposely traced on an extended scale, that by so doing I hope to stimulate the exertions of the natives, and thus to raise their views to a level with these designs. In the meantime, one portion of the scheme, which I trust to see carried into immediate effect, is not beyond their immediate requirements; as far as it goes, it is complete within itself; while hereafter it is intended to stand in the same relative position towards the other portion of the college, as its namesake, the High School of Edinburgh, does towards the college of that city, or as the great public schools in England occupy with respect to the universities.

14. But if I have ventured thus to claim an affinity for this part of my plan to great and venerable institutions, let it not be supposed that I have been led away by any fanciful analogy, or by the mere desire of imitation. In every scheme of education which includes the higher branches of study, there must be a separate provision for this purpose; but while a division of educational institutions is necessary, it is highly desirable that the importance of their connexion should not be lost sight of. Some remarks upon this point by Dr. Wilson, of the General Assembly's mission at Bombay, appear to me so just that I shall not scruple to transcribe them: "The connexion," he says, "between the school and college division of our institution is most intimate, for they are both taught under the same roof, and are placed under the same superintendence. This connexion I shall ever seek to maintain. It is of the greatest importance that those who have lately commenced their studies should see the actual progress of their seniors, that they may be excited to tread in their footsteps; and it is of no less importance, in the present state of native society, that the advanced pupils should be excited to diligence, by seeing a gradual, if not a rapid approach to their position, by multitudes of whom, at one time, they have had a considerable start. Loud complaints are made respecting the pride and pedantry of many of the natives partially educated, and the indolence into which they sink before their youth can be said to have passed away, and which strongly contrasts with their former ardour and zeal. This is owing to their being constituted gentlemen at large and scholars at will, without any public sympathy, such as is found in Europe, to press them forward, and any bright examples wooing them to advance. The remedy, I am of opinion, will be found in some such arrangement as we have made, and which I would earnestly recommend to the conductors of all the educational institutions in India, and to the Government itself."

15. "For the higher department of our institution we are not entirely dependent on our own school. We have been able to draw material for it from every similar seminary in this place, and particularly from the schools of the best private teachers; some of our pupils come from a great distance, and we are most happy to receive them on this very account, that they will prove, when properly trained and instructed, the most effective agents in the illumination of their native districts when they return to them."

16. I doubt not that similar results may be expected from a similar system at Madras.

17. It now remains for me to give the outline of the plan which I propose, and which I have embodied in the following resolutions, which, I trust, will be adopted by the Board:

1st. That it is expedient that a central collegiate institution, or university, should be established at Madras.

2d. The Madras University to consist of two principal departments: a college, for the higher branches of literature, philosophy, and science; and a high school,



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for the cultivation of English literature, and of the vernacular languages of India, and the elementary departments of philosophy and science.

3d. The governing body to be denominated the President and Governors.

4th. The college department to be placed under a principal and professors; the high school under a head master and tutors.

5th. Members of all creeds and sects shall be admissible; consistently with which primary object, care shall be taken to avoid whatever may tend to violate or offend the religious feelings of any class.

6th. It shall form no part of the design of this institution to inculcate doctrines of religious faith, or to supply books with any such view.

7th. No pupils shall be admissible in any department but such as are able to read and write the English language intelligibly.

8th. Pupils shall pay according to such rates as may be hereafter established by the president and governors.

9th. Should any sums be hereafter bestowed upon the institution for the purpose of endowing scholarships in the high school, or studentships in the college, the students and scholars appointed to them shall be admitted in such manner as may be determined by the president and governors.

10th. The first president and governors shall be appointed by the Governor in Council. There shall be 14 governors, seven of whom shall be native Hindoos or Mussulmans, besides the president. The appointment of the president and six of the governors shall rest permanently with the Governor in Council.

11th. Vacancies shall be effected by any continual absence from the limits of Madras for the space of two years, or by departure for England, or for any permanent residence in any other presidency, or by resignation, addressed to the secretary, or by removal under order of the Governor in Council.

12th. Every donor to the amount of 5,000 rupees shall, if, and while resident within the limits of Madras, become a life governor, and if not resident in Madras, shall have power to appoint a governor who is so resident (subject to the confirmation of the Governor in Council), to hold on the same terms as the other governors. But in all cases of persons so becoming life governors, the Governor in Council may appoint a governor who is not a native, in case such life governor or his appointee be a native; and the remaining governors may elect a native governor in case such life governor or his appointee be not a native.

13th. The president and governors shall frame general rules for conducting the current affairs of the institution, and they shall meet not less than once per month, five forming a quorum.

14th. In all questions to be decided by vote, the president shall have a casting vote.

15th. The first business to be done at all meetings when the president shall happen to be absent, shall be to appoint a chairman, who shall possess a casting vote.

16th. All rules and regulations to be made by the president and governors shall be confirmed within six months by the Governor in Council, in default of which they shall be considered thereafter as annulled.

17th. The Governor in Council shall have power to remove, not only any president or governor, but also all persons holding any office or appointment whatever in the institution. The president and governors shall have power to remove all persons holding any office or appointment under them in the institution.

18th. In case the Governor in Council shall hereafter appoint any Board of public instruction, the members thereof shall be visitors of this institution, and shall have power to call for all papers and information. They shall also elect the eight Governors who are not nominated by the Governor in Council.

19th. The president and governors shall make one annual report, to be furnished to the Governor in Council, or to the Board of Public Instruction, as the Governor in Council shall direct, which report shall contain an account of receipts and disbursements, a list of donors and subscribers, and a general statement of their proceedings, and of the progress of the institution.

18. I have alluded in these Regulations to a Board of Public Instruction hereafter to be appointed. I have already partly given my reasons for not recommending the immediate formation of this body. It appears to me that at the outset of an undertaking of this nature it is desirable that it should be under the immediate care of Government. As the system develops itself, and a greater degree of superintendence is required, the intervention of an agency of this kind will

will become expedient, if not indispensable. Its objects should not be confined to the parent institution which it is now intended to establish, but should embrace all the affiliated colleges and schools which it is hoped may arise in different parts of the country.

Formation of the  
Board of Educa-  
tion at Madras.

19. To this body also may be entrusted the distribution, subject to the control of Government, of the sum allotted by the Court of Directors for the furtherance of native education.

20. Notwithstanding the resolution of May 1836, a portion of this sum is still expended on strictly local purposes, which, however laudable in themselves, cannot be rightly considered those to which it ought to be appropriated.

21. The recent decision of the Supreme Government on our application in favour of the proposed Presbyterian school at the presidency, although founded upon an erroneous supposition that this Government intended that the building should be a charge against the fund set apart for national education, fully corroborates the view which I have taken of the intention of the Legislature and the Court in regard to this sum. But although I am decidedly of opinion that these grants should be discontinued, and the whole fund reserved for purposes strictly national, I do not mean to propose that they should be at once abandoned. I am happy to say that the surplus now in hand is amply sufficient to enable us to commence upon that part of the scheme which I have already stated is all that I contemplate as immediately practicable, viz. the high school.

22. The sum on hand on the 24th December 1839 amounted to 87,748 rupees, 13 annas, 10 pice; of the present monthly disbursements, the salaries of the present head master and his assistants at the seminary attached to the college, the office establishment, &c., amounting to nearly 400 rupees, will of course be absorbed in the high school; while the allowances for country schools at Tanjore, Combaconum, Ramnad and Palamcottah, and the Yeomiahs, for instructing pauper boys in Nellore, may be prospectively discontinued. In the meanwhile inquiries should be made how far these allowances may have contributed to aid the objects for which they were bestowed, and what degree of support they enjoy independent of that now afforded from the general fund, or are likely to obtain if that is withdrawn.

23. The following gentlemen appear to me to be well qualified to form the governing body of the institution. I therefore propose that they be requested to accept the office :

President, Mr. Norton.	
Governors, Dr. Cuddy.	Governors, Chocapah Chitty.
Colonel Cullen.	Hyder Jung Behadour.
Mr. Dent.	Narsinga Row.
Mr. Elliot.	Rogavat Charrier.
Mr. Ouchterlony.	Streenavas Pillay.
Colonel Walpole.	Armogam Moodelier.
Colonel Sim.	

24. The president and governors should be requested to lose no time in endeavouring to engage a properly qualified head master and tutors, and, in communication with the Military Board, to procure a suitable edifice for the high school. Probably some existing building may be appropriated to its immediate use; but if a new high school is to be erected, the recommendation of Dr. Wilson that the college should be in its vicinity will be kept in view.

25. The correspondence of the president and governors with the Government will be carried on in the Public Department; and I shall shortly have the honour of proposing the appointment of a secretary to the institution.

12 December 1839.

(signed) *Elphinstone.*

#### RESOLUTION of the Board of Education.

1. THE Board concurring in the views recorded by the Right honourable the Governor in the above Minute for the advancement of native education, adopt the resolution which he has suggested for the establishment of an university at Madras, consisting of a college and a high school, and the rules which his Lordship has proposed for their management; and in furtherance of the object are pleased to appoint the undermentioned gentlemen president and governors of the institution :

No. 12.

216.

B

President,

Formation of the  
Board of Educa-  
tion at Madras.

President, Mr. Norton.

Governors, Nusser ul Moolk.  
Armagum Moodelier.  
Chocapah Chitty.  
Dr. Cuddy.  
Colonel Cullen.  
Mr. Dent.  
Mr. Walter Elliot.

Governors, Hyder Jung Bahauder.  
Narsinga Rao.  
Mr. Ouchterlony.  
Ragava Chariar.  
Colonel Sim.  
Streenevassa Pillay.  
Colonel Walpole.

2. To enable the president and governors to comprehend fully the wishes and intentions of Government, it is resolved to furnish them with an extract from the Right honourable the Governor's Minute, and to request them to lose no time in endeavouring to secure the services of a properly qualified head master and tutors, and to place themselves in communication with the Military Board, for the purpose of ascertaining whether any public building can be appropriated as a high school.

3. Resolved, that the Education Committee appointed in 1836 be informed that it is the intention of Government for the present to undertake the general superintendence of the system of education which it has resolved to support, and that they be accordingly relieved from the charge of the seminary now attached to the college.

4. The president and governors of the university will be requested to report how far they propose to avail themselves of the services of the head master, assistants, and office establishment of this seminary, in order that those whom they may select may be transferred to the high school. Such of the pupils as may wish to continue their studies will there have an opportunity of doing so upon the same terms as the rest of the community. In this manner, the present seminary will be absorbed in the new high school.

5. Resolved, prior to the discontinuance of the aid now afforded from the funds for native education to schools at Tanjore, Cambaconun, Ramnad and Palamcottah, and the Yeomiahs, for instructing pauper boys at Nellore, that the collectors of those districts be required to report specifically what degree of support they enjoy independent of the Government, on the course of study pursued in each, their decline or improvement, and their general results.

#### FORMATION OF THE BOARD OF EDUCATION AT BOMBAY.

#### EXTRACT BOMBAY PUBLIC CONSULTATIONS, 6 May 1840.

Formation of the  
Board of Educa-  
tion at Bombay.

To the Committee of the Joint Meeting of the Native Education Society, and the Elphinstone College Council.

Gentlemen,

WITH reference to my letter to your address, under date the 30th January last, handing you a copy of one from your chairman, the Honourable Sir J. W. Awdry, and to Mr. Bruce's letter, submitting the observations of the joint committee on the Honourable Court's despatch of the 2d October last relative to the proposed union between the Elphinstone College and the Native Education Society's School, I am now directed to communicate to you the views of the Honourable the Governor in Council, and the course of proceeding which he considers it desirable to adopt, in order to give effect to the instructions of the Honourable the Court of Directors on this important subject.

2. In the opinion of the Governor in Council, the Honourable Court's letter contains the real grounds of the institution of a college, and shows the existence, in its present form, of the Elphinstone College, to be not only at variance with the necessities of the case, but also opposed to the intention of those who originated the Elphinstone professorships, and to the example which was proposed to the framers of the college in the Vidalaya of Calcutta. Under these circumstances, it appears to his excellency in Council that the most simple plan would be to abolish the college and all its appurtenances. Such a measure, however, has been

been objected to, on the ground that the name of a college carries weight with it in the opinion of the natives; but this can scarcely be admitted to be the case, since a college has existed for five years, and has been most successfully rivalled by the school; nor does there seem to be any reason for thinking that it will, for a time at least, carry more weight with it than it has heretofore done. The Honourable Court moreover observe, in paragraph 13 of their despatch, that the "establishment of a college as a distinct institution may possibly become expedient in the course of time; at present it is premature, and the project should be suspended." On these grounds, therefore, the Honourable the Governor in Council has been pleased to resolve that the "Elphinstone College" shall only be placed in abeyance for the present.

3. In coming to this resolution, the Honourable the Governor in Council has also been actuated by the conviction that it would be very unpopular to discontinue the name of its esteemed and honoured founder. The name of Mr. Elphinstone is unalterably associated with the Native Education Society as the founder of the whole, and is more peculiarly connected with the professorships, but it should be indissolubly bound with the college; and as the object of the present resolution is only to suspend, not to abolish, whenever the college may be revived on a surer basis, and under arrangements calculated to be more efficient and permanent, it will still be the "Elphinstone College."

4. In order still further to ensure that the name of its illustrious founder shall be retained, and so retained as to point to a revival of the Elphinstone College, the Governor in Council has resolved, that leaving the name of the society as at present, the Native Education Society's School shall be called the "Elphinstone College School," a name by which it will still be designated when the college is revived, and thereby indicate its intimate connexion with it.

5. Under the foregoing resolution the college council will cease to exist. Its funds must therefore be vested in other trustees, and these trustees would naturally be the Native Education Society, since it was for the establishment of professorships under that society that the funds were raised; but it has not escaped the observation of the Governor in Council that the character of this society has been considerably changed since that period. Its object originally embraced the whole presidency, its secretary was essentially the secretary of education, and, with the exception of the Poona College, there were no educational operations going on within the range of the presidency, under the support of Government, but what were in some way connected with it. Since that time, however, the institution has disconnected itself with the districts' schools altogether, some of these being under the collectors, and others under the superintendent of the Poona College, and during the same period the society has devoted nearly the whole of its attention to the English school. For having thus concentrated its exertions on so useful an object the society is much to be commended, but the Honourable the Governor in Council considers that it has acknowledged thereby that it is not equal to direct the educational labours of the whole presidency.

6. The professorships were founded under the former state of things, not by the inhabitants of Bombay alone, but also by the chiefs and principal persons in other parts of the country; and the professorships ought, therefore, clearly not to be considered as confined to the local interests of Bombay. Besides, Government has since extended its operations, without the aid of the Education Society, in appointing a superintendent to the Mahratta schools, and in establishing an English school under an European gentleman at Poona, and it has also been the wish of Government to incorporate the Sanscrit College in the educational state machine. The professors are confessedly not yet wanted as lecturers, except to a very partial extent, in the present very imperfect working of this machine; nor does the Governor in Council consider that four professors (which is the number proposed by your committee) can be necessary to direct the studies of the schools on this island, since the higher classes alone require their services, the lower classes being chiefly, if not entirely, taught by natives, as in fact is the case both in the school within the fort and the Native Education School; nor do the pupils as yet appear to evince much inclination to remain in the higher classes. The Honourable the Governor in Council is consequently of opinion that the professors should be employed for more general purposes than your committee would appear to contemplate, and that they should come more directly under the control of Government than, as has hitherto been the case, placed under a college council, the majority of the members of which are elected by the society. These con-

Formation of the  
Board of Educa-  
tion at Bombay.

siderations have led his Excellency in Council to resolve that the trust of the funds and the general management of the professorships shall be placed under a Board of Education, to be subject to the direct control of Government.

7. The society itself is of a mixed character. That an interest in education should be excited amongst the people whose children are to be educated, and that they should have some power in its direction is unquestionably desirable, but the society has shown, by the number of its subscribers, and the amount of their contributions compared with those of Government (as noted in the margin), that it is at present much more a Government than a popular institution. Hence the Governor in Council conceives that the whole should be more under the direct control of Government.

Average amount of private  
contributions - - - Rs. 3,000  
Government ditto - - - 20,000  
Besides addition to the funds of the  
West and Clare scholarships.

8. It is also very important and desirable to extend the influence of the society, and to awaken a desire in the interior of promoting and participating in the measures adopted by Government for the diffusion of knowledge. With this view branches might perhaps be established, by means of which the operations of the society would become co-extensive with those of the Board of Education, and for this purpose it seems but reasonable that whilst the Government influence should preponderate in the Board, the Education Society should have a due share in it.

9. The number of the present College Council, is, as justly remarked by your honourable chairman, far too large for work. The proposed Board of Education will consist of a president and six members; of these, three should be elected from the Native Education Society and its branches, and three, with the president, will be appointed by Government. The secretary to the society will also be the secretary to the Board of Education, he also being nominated by Government, and removed at its pleasure.

W. C. Bruce, esq.  
W. R. Morris, esq.  
J. M. Lennan, esq.

10. The Honourable Sir John Wither Awdry, knight, having assented to the wish of Government that he would preside over the Board of Education, has been appointed president, and the gentlemen named in the margin have been nominated members on the part of Government. Dr. Bird has been appointed secretary to the Board, and the Native Education Society has been requested to nominate three members to take their seat at the Board on the part of the society for the present year.

11. To secure unity of purpose, the want of which has been the chief cause of the confusion hitherto prevailing, the Government members will be removable only at the pleasure of Government, and then of course only for some assignable reason.

12. The Native Education Society's members in the Board should represent the native community only, and should therefore be natives; and as their feelings will necessarily change, they should, as in every really popular body, be elected yearly. To render the society as popular as possible, its representation should be as open as possible, and its three members should retire after serving one year, but should be eligible for re-election the following year.

13. The funds of the Native Education Society, under this arrangement, will all be entrusted to the Board of Education.

14. The funds of the Elphinstone Professorships should, agreeably to the original intention, be appropriated to professorships only. Although the application of them, to enable those professors to do their duty, by the establishment of a school and scholarships, of a library, and to the purchase of apparatus, might have been justifiable, in the absence of other means of securing those objects, yet, as now the funds of the society will be available for those purposes, the Governor in Council sees no good reason why the application of the Elphinstone fund should not be confined to the purpose for which it was subscribed.

15. The Elphinstone Scholarships would consequently cease, though on this subject the Governor in Council cannot but feel the full weight of the Honourable Sir John Awdry's excellent remarks; seeing, however, that the primary object of education at present ought to be the raising up of teachers, it is manifest that learning and teaching should be as much as possible associated together. Hence, by converting the scholarships into assistant professorships, no injustice would, we conceive, be done to their present holders, and while equal inducement to study would be held out, the objectionable character of highly paid scholarships would, to a certain extent, at the same time, be obviated; as, moreover, the professors have volunteered to superintend what have been called the school classes, in con-  
tradistinction

tradistinction to the college classes, their assistants would be employed under their direction ; and different rates of pay being established, there would be a constant struggle to improve themselves by the lectures of the professors, and in the art of teaching.

Formation of the  
Board of Educa-  
tion at Bombay.

16. In the event of the Elphinstone College funds not being equal to the provision of a sufficient number of assistants, the Governor in Council conceives that the West and Clare scholarships might, when qualified and required, be employed as assistant professors, and in this way no other teachers but professors and assistants to them need be employed in the schools.

17. Under this plan the school in the fort will not be required, and his Excellency in Council sees no reason why it should be continued.

18. With regard to the question of requiring payment from the scholars, the Honourable the Governor in Council entertains some doubts. A knowledge of English has become a necessity in Bombay, and the Governor in Council is of opinion that every boy entering the school might be called on to pay a rupee a month in advance ; but there should perhaps be no payment required from lads in the higher classes, in which there appears to be much difficulty in procuring students to remain.

19. Subscribers to the Native Education Society might be allowed one presentation of a pupil for every 15 rupees per annum of subscription ; but these points of interior detail can be considered and arranged by the Board of Education.

20. Separate communications on the various points noticed in this letter will, I am desired to add, be made to the Native Education Society, the Elphinstone College Council, and the secretary to the Board of Education.

I have, &c.

(signed) *W. R. Morris,*  
Sec<sup>y</sup> to Gov<sup>t</sup>.

Bombay Castle, 30 April 1840.

#### EXTRACT BOMBAY PUBLIC CONSULTATIONS, 13 May 1840.

##### NOTIFICATION.

THE Honourable the Governor in Council is pleased to notify that a Board of Education has been constituted, composed of the following gentlemen, to whom has been committed the general control and superintendence of all Government schools and educational establishments under this presidency :

V. 3244.

The Honourable Sir J. W. Awdry, baronet, President.

W. C. Bruce, esq., W. R. Morris, esq., J. M'Lennan, esq., and three native gentlemen, to be nominated by the Native Education Society, Members.

J. Bird, esq., Secretary.

By order, &c.

Bombay Castle,  
13 May 1840.

(signed) *W. R. Morris,*  
Sec<sup>y</sup> to Gov<sup>t</sup>.

#### EXTRACT BOMBAY PUBLIC CONSULTATIONS, 8 July 1840.

##### NOTIFICATION.

WITH reference to the notification of the 13th May last, the Honourable the Governor in Council is pleased to announce that the three following native gentlemen have been nominated by the Elphinstone Native Education Institution members of the Board of Education, viz.

V. 4573.

Framjee Cowarjee, esq., Jugonath Sunker Sett, esq., and Mahomed Ibrahim Muckla, esq.

By order, &c.

Bombay Castle,  
8 July 1840.

(signed) *W. R. Morris,*  
Sec<sup>y</sup> to Gov<sup>t</sup>.

“RETURN of the Establishments maintained in 1843 for the Promotion of Education amongst the Natives of *British India*, and the Salaries and Expense of the same ;—Also, a STATEMENT of the Funds supplied by the *Indian Government*, and from other Sources, for the Support of Education in *British India*, and the Expenditure of the same, under separate Heads.”

THIS portion of the Order cannot be complied with from the records in this House.

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(True Extracts.)

East India House,  
April 1845.

*T. L. Peacock,*  
Examiner of India Correspondence.

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EDUCATION (INDIA).

COPY of ORDERS of the Government of India for the Establishment of the Council of Education at Bengal, and at the other Presidencies; &c.

(*Mr. Hume.*)

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Ordered, by The House of Commons, to be Printed,  
14 April 1845.

216.

Under 2 oz.

EAST INDIA.  
(INDIAN LAW COMMISSION.)

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C O P I E S  
OF  
S P E C I A L R E P O R T S  
OF THE  
INDIAN LAW COMMISSIONERS.

*[Presented to Parliament in pursuance of the Act 3 & 4 Will. IV. c. 85, s. 54.]*

East India House, }  
17 April 1845. }

JAMES C. MELVILL.

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*Ordered, by The House of Commons, to be Printed.*  
*2 May 1845.*

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## CONTENTS.

LIST of SPECIAL REPORTS from the INDIAN LAW COMMISSION, received during the Year 1844.

No.	Date of Report.	SUBJECT.	When Recorded.	Remarks.	When Reported to Court.
1.	15 Feb. 1844 - 25 July —	-- On Civil Judicature in the Presidency Towns.	-- 11 May 1844, (Nos. 5 to 8); 3 August 1844, (No. 1.)	- -	- - Desp. No. 11, 10 May 1844; Letter to Secretary India House, No. 17, 1 June 1844.
2.	25 April 1844	-- On giving Commissioners of the Court of Requests so much of the power given by Stat. 5 & 6 Will. 4, c. 19, to Justices of the Peace in England, as relates to the Recovery of Wages due to Merchant Seamen, and on other matters connected with such Seamen in Bri- tish India.	-- 11 May 1844 (No. 4.)	- -	- - Desp. No. 29, 20 December 1844, p. 12.
3.	28 Nov. 1844	-- On the binding of Ap- prentices, and the encour- agement thereof, with Draft of an Act.	Not recorded.		

*T. L. Peacock,*  
Examiner of India Correspondence.

SPECIAL REPORTS  
OF THE  
INDIAN LAW COMMISSIONERS.

—No. 1.—

REPORTS ON CIVIL JUDICATURE IN THE PRESIDENCY  
TOWNS,

dated respectively the 15th February and 25th July 1844, with connected Papers.

No. 1.  
On Civil Judica-  
ture in the  
Presidency Towns.

HOME DEPARTMENT, Legislative, No. 11, of 1844.

Home Department,  
Legislative,  
10 May 1844.

To the Honourable the Court of Directors of the East India Company.

Honourable Sirs,

WE have the honour to transmit the accompanying Report, dated 15th February last, from the Law Commissioners, on the subject of Civil Judicature in the Presidency Towns, with a revised draft of Act for establishing a Court of subordinate Civil Jurisdiction in the city of Calcutta. The original draft on this subject was submitted to your Honourable Court with para. 52 of our despatch No. 33, dated the 30th December 1842.

2. We have felt that the subject of this Report involves so much of legal technicality, that we prefer to reserve our own judgment upon it until the opinions of the highest authorities in law and jurisprudence at home shall have been taken, upon the propriety of adopting the scheme recommended by the Law Commissioners; and we therefore request that your Honourable Court will take measures for obtaining such opinions.

We have, &c.

(signed)

*Ellenborough.*

*W. W. Bird.*

*T. H. Maddock.*

*C. H. Cameron.*

Fort William, 10 May 1844.

From the Indian Law Commissioners, to the Honourable the President of the Council of India in Council; dated 15 February 1844.

Legis. Cons.  
11 May 1844.  
No. 5.

Honourable Sir,

WE have now the honour to report upon judicature in the Presidency towns, confining ourselves for the present to the civil branch of the subject.

We believe, that in no other country are the judicatures of the capital so completely isolated from those of the provinces, as in the three Presidencies of British India.

In the way of appellate judicature, or of general superintendence, the Supreme Courts have scarcely any connexion with the courts of the mofussil. And in the exercise of their original jurisdiction, those courts, and the courts of requests, have been appointed to administer law in the Presidencies, with as little reference to the improvement of Indian jurisprudence and Indian judicature in general, as if the Presidency towns had to this day been factories in which the Imperial Court of Delhi permitted our Sovereign to administer justice to her own European subjects.

We have already announced, in our Report upon the *Lex loci* of British India, our recommendation for the establishment at each Presidency town of a College of Justice or High Court of Appeal, consisting of the Judges of the Supreme Court and those of the Sudder Dewanny Adawlut. This high court will exercise appellate jurisdiction, and have general superintendence over all the judicatories of the provinces, and preserve regularity and uniformity of procedure amongst them.

But we would have the mofussil courts taught not only by precept, but by example.

We consider the reform of the Presidency Courts of the greatest importance, not only for the purpose of ensuring the best administration of justice in those towns, but for the still higher purpose of making them fit models for the imitation of all the other courts of the country.

In two respects the courts now existing in the Presidencies are very unfit models:

First, in respect that small causes are adjudicated by a different court and according to a different procedure from all other causes.

In some particulars, the small causes enjoy great advantages over the others; in some, these others enjoy great advantages over the small causes.

At present there is no way in which a suitor in the Presidency towns (Bombay is a partial exception) can have the benefit of cheap and rational procedure (particularly in the *viva voce* examination of his adversary) without foregoing the benefit of that legal learning which secures the correct application of the substantive rules of law and equity. Nor is there any way in which a suitor can get the benefit of that legal learning, except by sacrificing the advantages of cheap and rational procedure.

Yet there is in reality nothing incompatible in these two sorts of advantages, though perhaps they have never yet been united in practice. To unite them is one of the main objects of our present scheme, and we shall begin our Report by explaining in what way such suits as usually fall within the jurisdiction of courts of requests, will be dealt with under the system of courts proposed by us.

The second respect in which the courts existing in the Presidencies are very unfit models, is that the rules of law which are called law, and the rules of law which are called equity, are administered by two different jurisdictions.

In the result we contemplate the administration of all the substantive law of the country, put into the form of codes, by one system of courts.

But it seems clear to us, that the rules of law which are called law, and the rules of law which are called equity, should, in their present condition, be administered by one system of courts in the Presidencies, as they already are in the mofussil. On account, however, of the magnitude of this experiment, and on account of the high authorities which may be vouched against it, we propose to proceed by steps.

We propose only to give to our new court power to administer complete justice, that is, to administer equity as well as law, in all suits within its jurisdiction; and we propose that its jurisdiction shall be concurrent with, not exclusive of, the jurisdiction of the Supreme Court in actions at law, leaving to the Supreme Court alone for the present all the rest of its equitable jurisdiction.

We ourselves feel perfectly confident of the success of our experiment, but confidence of the success of such an experiment cannot be attained without long and careful reflection; the public therefore cannot be expected fully to share it.

But proceeding as we propose by steps, all that can be imagined to be put to hazard by failure, is of trifling value, compared with the benefits to be attained by success.

For suppose that, as we expect and intend, the suitors at law should be drawn away from the Supreme Court by the greater cheapness and simplicity of the new procedure, and the faculty of examining the adversary; and suppose further, that, contrary to our expectations, the new judicature, original and appellate, should not appear to those who may watch its operation with a view to the interests of justice, to be a powerful instrument for the discovery of truth, and for the correct application of the rules of substantive law, then the whole of that large portion of equity which is not consequent upon a suit at law, would remain untouched, and if ever reformed at all, would be reformed in some other way. The whole machinery would be left standing, and the portion of equity and of law drawn away by our new court, would revert to its original condition.

On

On the other hand, if the experiment should, as we venture to foretel, be completely successful, the Government could then proceed with the greatest confidence to provide that the new court should entertain all suits in equity, whether based upon previous proceedings at law or not.

In like manner and for the same reason (viz. the doubt which may be felt by the reflecting portion of the public as to the success of our experiment), we do not recommend the abolition of the common-law jurisdiction of the Supreme Court. We believe that such a measure might be unpopular, and we think that our object may be attained in a gentler way, and without shocking any prejudices, by allowing the two systems to subsist together. We do not even intend to protect the jurisdiction of the new court, by enacting that no one who sues at law in the Supreme Court shall recover costs.

If this plan is adopted there will be two roads open at once by which the suitors of the Presidencies may obtain the great benefit, of having the profound learning of the Judges of the Supreme Court applied to their affairs.\*

To disentangle transactions which the ignorance, negligence and fraud of mankind have complicated, and to refer each essential part of the transaction to the principles of law or jurisprudence which ought to govern it, must always be the subject-matter of a science and an art. It is vain to expect that this science and this art can be fully mastered without long and arduous discipline. That discipline the Judges of the Supreme Court have gone through, and it is because of the high value we set upon their science and art, that we are so anxious effectually to open the advantages of them to the public.

When these two roads are open at the same time, it will be very instructive to observe what sort of causes are carried by the new road, and what sort by the old. Our own belief is, that in no long time it will become disreputable to sue at law in the Supreme Court. It will soon be understood, that a plaintiff who prefers bringing his action there, is a man who is afraid of being personally examined as to the truth of his case, a man who shuns equity and good conscience, a man who wishes to entangle his adversary in the meshes of written special pleadings, and to have his cause decided upon some point foreign to the merits of it.

In this state of things, we of course expect that the common-law jurisdiction of the Supreme Court will wither away in the presence of its rival, and that the legislature will shortly be able to abolish it without exciting alarm or regret.

There are two other respects in which the tribunals of the Presidencies are, in our opinion, unfit models :

First, in respect to their method of pleading.

Secondly, in respect that the public is not associated with them in the business of judicature.

In the Supreme Court there are the elaborate rules of English pleading, calculated, for the most part, as we believe, to produce the best results when they are observed ; but as the pleading is not oral, the mode in which the neglect of them is visited upon the suitors, produces great mischief, and the consequence of this mischief has been a very strong prejudice against special pleading.

To such an extent has this prejudice run, that every unfair attempt to put aside in an argument the real merits of the case, is, in popular language, called special pleading. It must be confessed, however, that the confusion of thought which is implied in such an application of the term "special pleading," is owing quite as much (if not more) to the indiscriminate defence of the English system, as to the indiscriminate attack upon it.

The truth is, that special pleading, that is to say, the logical rules which constitute the essence of it, and which are of universal application, is not only, what Mr. Serjeant Stephen calls it in his admirable treatise on the subject, "a fine juridical invention," but is the method which ought to be followed in all disputes,

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\* The only qualification we have introduced into the Act for the professional Commissioners, is, that they shall be barristers of five years' standing : under this provision the judges of the Supreme Court might of course be employed in administering justice in the new court. But if they should not be so employed, the suitors will have ready means of obtaining the benefit of their learning, under the scheme which we are recommending, by appeal to the College of Justice.

putes, whether forensic or not, by parties desirous in good faith of terminating their disputes.

In the court of requests the pleading is oral, but is subjected to no rules.

In neither tribunal is there any jury, or any portion of the public appointed to perform such functions of a jury as are really useful.

The Draft Act for establishing our new court, embodies our project for reform in both these particulars; but we beg to reserve the full discussion of them for a future Report. We are aware that with respect to them differences of opinion exist, while with respect to the subjects of our present Report, we have sanguine hopes of unanimity.

Before entering upon the subject-matter of our Report, we have to make one more prefatory statement.

We have considered anxiously whether it would be better to treat the two topics, viz. the incorporation of small-cause jurisdiction with general jurisdiction, and the incorporation of equity jurisdiction with common-law jurisdiction abstractedly, or by a critical examination of the principal English cases which bear upon the subject.

We have decided upon the latter course. We are sensible, however, that it has some serious disadvantages. Such an examination must of necessity be incumbered with difficult and repulsive technicalities. And as the cases are not imaginary ones, devised by human ingenuity for the illustration of the subjects, they unavoidably contain much matter which is not so illustrative, which matter must nevertheless be examined, for the full understanding of that which is so illustrative. These cases do not resemble the experiments which the chemist invents in order to test his doctrines, and from which he studiously excludes every thing that is foreign to his purpose. But they resemble the chemical processes of nature, which the chemist observes, and in observing which he is forced to pay attention to many things which are beside his immediate purpose, in order that he may be sure he understands what is within that purpose.

On the other hand, these cases possess the great advantage of reality. They are part of history. They exhibit the actual sufferings of human beings under the rules of English procedure, and show how those sufferings might have been prevented; or they show how impending sufferings actually were prevented by the benevolent, yet questionable interference of the judges in relaxing those rules. These cases contain also (and this consideration alone would have determined our course), nearly all the arguments by which the system we are endeavouring to reform, has been defended.

A refutation of these formidable arguments, formidable, as we believe, principally from the high station and still higher abilities of those from whom they have proceeded, seems absolutely essential to our purpose, and is in truth all that is essential to it.

We trust, therefore, that we shall be excused for the dryness, perplexity and technicality of the details into which the course we have adopted will inevitably lead us.

We now proceed to explain in what way such suits as usually fall within the jurisdiction of courts of requests, will be dealt with under the system of courts proposed by us.

It is not to be questioned, that there are a great many suits which, so far as regards original jurisdiction, any sensible man of business is competent to decide without the aid of technical knowledge, and the appointment of unprofessional judges for the decision of such suits, is a measure suggested by a due regard to economy. But it does not appear to us that this object is accomplished in a convenient manner, by two wholly independent sets of courts separated by an arbitrary pecuniary limit, and administering justice under rival systems of procedure, especially when the inferior set decides causes without any more regular and constant supervision, than can be exercised through writs of certiorari and actions of trespass against the judge. The consequence of this arrangement is, that practically the inferior court decides without any control. All its decisions are acquiesced in, though it cannot be supposed that they are all right; or that they are as nearly all right as they would be under the check and stimulus of appellate jurisdiction. We believe there has been no instance of a certiorari to the Calcutta Court of Requests. As far as we know, its proceedings have never  
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till lately been called into question. In a late case, a defendant, irritated by a decision against him in a suit which (though the Commissioners had been in the habit of deciding cases of the sort) was beyond their jurisdiction, used, as is alleged, intemperate language to the court, said that the proceedings and decree against him were all illegal, and brought his action against the Commissioner in the Supreme Court, where he recovered judgment upon demurrer.

We think this an invidious way of keeping the inferior court within the limits which are intended to circumscribe its proceedings; and accordingly, in our own system, this is done without any harsh pressure from above, by a smoothly working internal organization of the whole system of courts. If such a case as that to which we allude, which was an action against an executor, were to come before the Subordinate Civil Court which we are proposing, the chief Commissioner (who must be a barrister of five years' standing), would reserve it for himself, or some other professional Commissioner. If by mistake he should assign it to an unprofessional Commissioner, that Commissioner would send it back to him. If by a second mistake the unprofessional Commissioner should not send it back, but proceed to hear and to decide, he would indeed exceed the limits intended in point of convenience to circumscribe his proceedings; but he would not in point of law exceed his jurisdiction; for that has no other limit than the jurisdiction of the Subordinate Civil Court, of which he is a member. Any error he might have fallen into would be set right upon appeal to the chief Commissioner, but the decision of the unprofessional Commissioner would be supported if it should turn out to be right, although, according to the policy of the law, the suit is not one which ought to have been brought before him.

The mode of proceeding by action of trespass against the judge, is applicable only to a case in which the court has exceeded its jurisdiction. So long as the court keeps within the limits assigned it by law, the only mode in which it can be interfered with is the writ of certiorari. This writ may be obtained from the Supreme Court, by any party to a suit in the court of requests, not only upon the ground of excess of jurisdiction, but, it seems, upon any ground from which it can be inferred, that complete justice will not be done by that court. Applied by an English court of law to a court of requests, it is a remedy of an extraordinary and rather violent nature, by which the cause is, as it were, snatched away by a superior indeed, but not superordinate tribunal, to be dealt with according to a different procedure, and upon different principles.

The modes by which in English procedure a superordinate court sets right the mistakes of its subordinates, are writ of error and writ of false judgment.

The certiorari is the mode in which a superior, but not superordinate court controls the proceedings of those which are inferior, but not subordinate to it. The nature of this writ is well explained as far as regards our purpose, by the case of *Groenwelt v. Burwell*.

"The censors of the College of Physicians have power by their charter, confirmed by Act of Parliament, to fine and imprison for malpractice in physic; and accordingly they condemned Dr. Groenwelt for administering *insalubres pillulas et noxia medicamenta*, and fined and imprisoned him: and the question being, whether error or certiorari lay, &c., it was held per Holt, Chief Justice, 1st. That error would not lie upon the judgment, because their proceeding is not according to the course of the common law, but without indictment or formal judgment; yet, 2d. That a certiorari lies; for no court can be intended exempt from the superintendency of the King in his court of B. R."—1 Salk. 144.

Now it is quite reasonable, that in superintending such a collegiate and professional judicature as this, the Court of King's Bench should be satisfied with keeping the inferior tribunal within its jurisdiction; and with seeing that there is no manifest partiality in the proceedings; and should not undertake to decide whether what this learned body had pronounced to be "*insalubres pillulæ et noxia medicamenta*," were really so or not. But it seems to us quite extravagant to say (as is in effect said by using the certiorari as the sole instrument for controlling a court of requests), that a small debt differs from any other debt in the same way as the mala praxis of a physician differs from an ordinary offence.

According to the spirit of our plan, cases which involve questions of law of any difficulty, ought to be decided originally by the professional members of the court; but some questions of law must inevitably arise in the suits which will be assigned to the unprofessional members, and we have therefore provided, that their decrees, as well as those of their colleagues, shall be consistent with

equity and good conscience, following such law as would be administered to the parties by the Supreme Court.

The direction and limitation thus expressly given to equity and good conscience, and which are perhaps tacitly implied in the terms themselves, appear to us of very great importance; and we do not see how we can ensure that this direction and limitation of the equity and good conscience of unprofessional judges shall be constantly observed, otherwise than by giving an appeal from them to judges who have received a legal education.

A court, which should proceed according to any supposed equity and good conscience without reference to law, would be an institution of very questionable utility, or rather such a course of procedure would be impracticable. For it is in truth impossible to say what equity and good conscience require, in a country where there is any law, without considering what were the lawful and conscientious expectations in respect of the subject-matter of the parties concerned; and it is impossible to know what these expectations were, without knowing the law which the parties had in their contemplation.

Even in cases of contract, which are emphatically the province of equity and good conscience, it is impossible to proceed without advertence to the existing law. In many contracts, much is implied by law beyond what is expressed. A bill of exchange, one of the most common contracts, does not express any of the rights and obligations which are created by the act of drawing it. They are all implied by law. How, then, is it possible to adjudicate according to equity and good conscience between the parties to a bill of exchange, without adverting to the law out of which their expectations arise? To put a particular case: let us suppose an action brought against the drawer, and that the defence is, that no notice of the dishonour of the bill was given him. Unless the judge knows, first, that the law imposes upon the drawer an obligation to pay the bill if the acceptor does not; and secondly, that the holder of the bill cannot enforce the obligation if he has omitted to give notice of dishonour to the drawer; unless, we say, the judge knows these things, he may as reasonably expect to find the equity and good conscience of the claim or of the defence, by making the parties draw lots, as by searching for it in his own breast and in the bit of paper before him.

Perhaps, however, it may be asked, if every thing is to be decided according to law, in what sense is this court a court of equity and good conscience?

The answer to this question, so far as regards the cases intended to come before the unprofessional Commissioners, is, we apprehend, that English courts of law have rules of procedure (pleading, evidence and practice) which frequently, though accidentally, shut out the equity and good conscience of the case. The lawful and conscientious expectations of the parties do not depend upon these rules, as they do upon the rules of substantive law. Two men who are conscientious, and who believe each other to be so, do not, when they enter into a contract with each other, expect to have any thing to do with the rules of procedure, and make their contract without any reference to such rules. A court of equity and good conscience, deciding such cases as we intend to come before the unprofessional Commissioners, is then simply a court which is not precluded, by its rules of procedure, from fulfilling the lawful and conscientious expectations of the parties.

It would be difficult to assign any other than technical reasons why such courts should be considered as outcast from the general administration of justice in the country.

Whitelocke, in treating of the Court of Chancery, quotes a gloss on the Grand Coustumier of Normandy, fit to be adverted to upon an occasion of this kind:

"In magistratibus imperium communicatum non est liberum, sed regulis juris subjectum; etiamsi causa ei esset commissa in conscientiâ quia tunc intelligitur de conscientiâ legibus munitâ.—F. 4, 6, gloss."

This gloss Whitelocke thus translates and expands:—"In magistrates, the government (power?) communicated is not free, but subject to the rules of law; though the cause be committed to him in conscience, because that is to be understood a conscience armed with law; not that which one builds to himself. But he must follow the conscience of the public laws; not his peculiar conscience."—Whitelocke's Notes upon the King's Writ, &c. vol. II. p. 393-4.

This doctrine appears to us to be of universal application. We would commit no causes to the conscience which a judge builds to himself. We hold that a court for

for the recovery of small debts ought to follow the conscience of the public laws, not the peculiar conscience of the judge who happens to be presiding in it; and as a consequence, we hold that such a court should be incorporated with the general judicial system, and subject, like all other courts of original jurisdiction, to have its errors set right by appeal.

It is, however, true, that those courts of conscience of which the sole or the principal object is the recovery of small debts, have never been admitted within the pale, so to speak, of English judicature.

We shall notice in another place a project which Lord Mansfield seems to have entertained, of dealing with their proceedings by means of an action for money had and received (which he was fond of calling a bill in equity), as the Courts of Chancery and Exchequer deal with the proceedings of courts of law by bill in equity properly so called. This project was never followed up, and if it had been, its remedial operation must needs have been very small. But in a late case (*Scott v. Bye*, 2 Bing. 344), an attempt was made to bring the proceedings of the Southwark Court of Requests under the supervision of the Court of Common Pleas, by means of a writ of false judgment, which is the regular mode of correcting the errors of an inferior court not of record. The Common Pleas held that they had no jurisdiction.

Some of the observations made in the judgment delivered, will help greatly to illustrate our own views of the subject.

Chief Justice Best said: "In the court of requests, pleadings in writing are not required, and would be highly inconvenient. A party may be examined as a witness, and the judgment is to be according to equity and good conscience, that is, such as a plain man, ignorant of the rules of law, which the judges of that court must be, shall think just. If the expense and delay that must be occasioned by an appeal to the Common Pleas, did not entirely defeat the object of the legislature in creating courts of requests, can a court, the decisions of which are wisely subject to fixed rules, be a proper tribunal to correct the proceedings of courts where the judges are left to the guidance of their own arbitrary discretion?"

All the other judges took the same view, and Mr. Justice Burrough, putting the principal objection still more pointedly than the Chief Justice, observed, "the words 'equity and good conscience' imply a course of proceeding different from that of the common law, and one of which we are not competent to form a judgment."

According to our conception, the true theory of courts of requests is not that the questions which come before them should be decided by plain men, ignorant of the rules of law applicable to those questions; but that the questions should be of so simple a nature, that the law applicable to them may be presumed to be within the reach of any plain man of ordinary education.

We readily admit, that the expense and delay of an appeal in the form of a writ of false judgment, would defeat the object in view, but the appeal which is intended to be given in our system, will be as cheap, simple and rapid as it is possible to make it. Indeed one of the great objects we most constantly keep in view in our recommendations regarding procedure, is to bring the learning of highly educated judges to bear in the speediest and least expensive manner, upon the disputed rights of all classes of the community.

We have already said that it does not enter into our contemplation to give "arbitrary discretion" to any class of judicial functionaries; and as to the incompetence of English judges to form a judgment of a course of proceeding such as is implied by the words "equity and good conscience," we remark, that the proposition affirming such incompetence, must be understood with special reference to the occasion. Upon a writ of error, or a writ of false judgment, they are incompetent, and if the legislature were to insist upon bringing the proceedings of courts of conscience for revision before them by either of these writs, or by any proceeding in the nature of these writs, the consequence might be, that, notwithstanding the simple and rational nature of the procedure below, the lawful and conscientious expectations of the parties might sometimes be disappointed, by the reversal of decrees which, though arrived at in an irregular manner, might very well stand according to equity and good conscience.

But without going out of the circle of English practice, a mode of proceeding in the nature of an appeal from unprofessional to professional judges, may be found, which, as far as regards the due subordination of form to substance, is



every thing that can be desired : we mean, the mode of proceeding by motion for a new trial, and it is accordingly from this that we propose to borrow the principle of our appeal.

If Mr. Justice Burrough had been hearing a motion for a new trial to set right a mistake committed by the jury in trying a cause, he would have expressed himself very differently respecting equity and good conscience, from what he did in the above cited case of *Scott v. Bye*. He would have declared that he understood perfectly well what was meant by those words, and that he was bound to decide in accordance with their meaning.

We propose to examine, with some attention, the leading English cases upon motions for new trials. This examination will show that the principle of confirming upon appeal what has been done irregularly by unprofessional judges (for such juries are when their verdict involves matter of law), provided the justice of the case has been attained, is known and practised in English procedure ; and also what a beneficial effect the principle has already produced in the English system, by preventing the disappointment of lawful and conscientious expectations.

Lord Mansfield, inquiring into the whole doctrine of new trials, says,—“ The rule laid down by Lord Parker seems to be the best general rule that can be laid down upon this subject, viz. doing justice to the party, or, in other words, attaining the justice of the case.”—1 Burr. 395. In another case, he says,—“ Though the ground of the verdict should be wrong, yet, if it clearly appeared to us now, that upon the whole no injustice had been done to the defendant, or if it clearly appeared to us now that the plaintiffs, by another form of action, could recover all they have got by this verdict, we think the court ought not to grant a new trial.”—2 Burr. 936.

Upon the same subject Lord Camden says,—“ We are forced to say, the verdict is according to the justice of the case, and on a motion for a new trial we are desired to grant it for a fault in the declaration against the justice of the case. But if I had only the case of *Dearly v. The Duchess of Mazarine*, 2 Salk. 646, to warrant me (though the jury were liable to an attain in that case), I would not grant a new trial in the present case.”

In the same case Mr. Justice Bathurst says,—“ But the court can see in this case, that justice and equity are with the plaintiff, and they never will grant new trials when the verdict is on the honest side of the cause. The case of *Smith v. Page*, 2 Salk. 644, is a very strong case to this purpose. In ejectment, the plaintiff was a mortgagee, and claimed by surrender, whereas the land was not copyhold, and the defendant claimed only by a voluntary conveyance ; the verdict was for plaintiff, and the court of B. R. would not set it aside and grant a new trial against the honesty of the cause.”—2 Wils. 302.

The case of *Edmondson v. Machall*, was an action of trespass for assaulting and beating the plaintiff's niece *per quod servitium amisit*.

The case proved on the part of the plaintiff was aggravated by many circumstances of ill-treatment. Another cause stood next in the paper for trial which was brought by the niece against the same defendant for the same assault. The counsel for the plaintiff declared their intention of not trying that cause, and withdrew that record. The jury found a verdict for the plaintiff, damages 300 l., which it was admitted were not excessive, if the jury were not confined to the consideration of the mere loss of service to the plaintiff.

Mr. Justice Ashurst said,—“ That the judges of this court had consulted with the rest of the judges on this case, and the result of their opinion was, without giving any positive opinion upon the question of law, that this rule (a rule for a new trial) ought to be discharged. An application for a new trial is an application to the discretion of the court, who ought to exercise that discretion in such a manner as will best answer the ends of justice. It does not require much penetration to see what are the ends of justice in the present case. It is certain that the girl herself ought to have some satisfaction for the injury she received, and that she consents not to try her action ; the question is, whether justice has not already been done, for it was admitted at the bar, that if the injury she sustained could be taken into consideration in this action brought by the aunt, the damages, which the jury have given, are by no means excessive. Then there does not appear to be any ground for the defendant to call on the discretion of the court to send this cause down to be retried on a technical objection in point of law ; and all the judges are unanimously of opinion, that,

as complete and substantial justice has been done, there is no reason to grant a new trial.

"On the plaintiff's undertaking to pay over to the niece the damages, after deducting the costs of this action, and on the niece's undertaking not to proceed in the action in which she herself was plaintiff. Rule discharged without costs."—2 T. R. 4.

In the case of *Wilkinson v. Payne*, Lord Kenyon says,—“In the case of new trials, it is a general rule that in a hard action, where there is something on which the jury have raised a presumption agreeably to the justice of the case, the court will not interfere by granting a new trial, when the objection does not lie in point of law. This rule is carried so far, that I remember an instance of it bordering on the ridiculous, when in an action on the game laws, it was suggested that the gun with which the defendant fired was not charged with shot, but that the bird might have died in consequence of the fright; and the jury having given a verdict for the defendant, the court refused to grant a new trial. In this case though the first marriage was defective, a subsequent one might have taken place: the parties cohabited together for a length of time, and were treated by the defendant himself as man and wife: these circumstances, therefore, afforded a ground on which the jury presumed a subsequent marriage. And if there were any ground of presumption, it is sufficient in a case like this. In this case the parties did not intend to elude the Marriage Act, but all their friends were fully informed of and concurred in the former marriage, and I think we should ill exercise the discretion vested in the court, if after the jury had presumed a subsequent legal marriage, under all the circumstances of the case we were to set aside their verdict. In a late case of *Standen v. Standen* the jury presumed a legal marriage, though there was strong evidence to induce a suspicion that there had not been time enough for the banns to have been published three times.”—4 T. R. 469.

In the same case Mr. Justices Buller says,—“If the verdict be consistent with the justice, conscience and equity of the case, we ought not to grant a new trial. This is not so strong a case as *Dearly v. The Duchess of Mazarine*, where the court refused to grant a new trial, though the verdict was against law.”

In the case of *Cox v. Kitchin*, the same celebrated judge again lays down the same doctrine. The judge who tried the cause had directed the jury, in case they should be of opinion that the defendant was living in a state of open adultery at the time of the contract made, to find a verdict for the plaintiff, for, as the husband under those circumstances would not then be liable, he thought the wife must be liable herself.

“This case comes before the court under very different circumstances from those of the case cited (a case had been cited to show that the law was against the plaintiff). The question there arose on demurrer, whereas this is a motion to set aside a verdict. Motions for new trials are governed by the discretion of the court. When the judge at Nisi Prius has thought fit to save a point, the court has been in the habit of considering itself in the situation of a judge at the time of the objection raised. But this case comes before us without any point saved, and, therefore, we must look to the general justice of the case before we interpose by granting a new trial; nor is it necessary we should nicely examine whether the defendant be strictly liable in point of law. The leading reported decision on the subject of granting new trials, is that of the *Duchess of Mazarine*. There can be no doubt but that was the case of a verdict against law; yet the court said, that as the justice and conscience of the case were clearly with the verdict, they would not interpose.”

He then discusses the law of the case, and concludes—“But whether she be strictly liable or not, it appears that she has lived as a feme sole, that she has represented herself as such, and has obtained credit under that character. The defence, therefore, is dishonest and unconscientious, and on that ground I think that the court ought not to interpose.” The rest of the court concurred on this last point, and the new trial was refused.—1 Bos. and Pull. 339.

The case of *Smith v. Page*, 2 Salk. 644, was an action of ejectment. The plaintiff was a mortgagee, and claimed by surrender (a mode of conveying applicable only to copyhold land), whereas the land was not copyhold. The defendant claimed only by a voluntary conveyance. The verdict was for the plaintiff, and the court would not set it aside, and grant a new trial against the honesty of the cause.

The case of *Dearly v. The Duchess of Mazarine*, was an action for wages brought

brought against that celebrated Duchess ; and the jury found for the plaintiff, though she gave good evidence of her coverture. The court would not grant a new trial, because, says the report, there was no reason why the duchess, who lived here as a feme sole, should set up coverture to avoid the payment of her just debts.—2. Salk. 646.

These two last cases have already been brought partially to notice, being cited in the other cases as furnishing an argument *à fortiori* for the decision.

We now proceed to remark upon these cases, and to apply the doctrine contained in them to the matter in hand. They may be divided into three classes.

In most of the cases where the verdict of a jury has been sustained upon considerations of equity and good conscience, no rule of substantive law has been contravened by it. Most of them are only illustrations of the principle which we have cited above from Lord Mansfield. "If it clearly appeared to us now, that the plaintiffs by another form of action could recover all they have got by this verdict, we think the court ought not to grant a new trial." In other words, if the plaintiff is by the substantive law entitled to what the verdict gives him, we will not grant a new trial, because the rules of procedure have been violated.

The case in 2 T. R. 4, is not within the letter, but quite within the spirit of this principle. The plaintiff in that case could not in any form of action have recovered what the jury gave her ; viz. damages for the suffering inflicted upon her niece. But the niece herself could have recovered those damages, that is in point of substantive law, for in fact she perhaps could not, for want of other proof than her own testimony, which, according to the English rules she could not have been permitted to deliver in a suit in which she was plaintiff. And as all the evidence necessary to prove her title to them had been given in the action brought by the aunt, the court allowed justice to be attained irregularly and compendiously, by the plaintiff undertaking to pay over to her niece the damages, after deducting the costs of the action.

The first class then is, that in which the courts have sustained a verdict consistent with equity and good conscience, though the rules of procedure have been violated in arriving at it.

We may hope that the rules of procedure laid down for the subordinate civil court will never exclude the justice of the case, and consequently that no cases will occur falling within this class. If, however, any should occur, a decision according to the justice of the case will be protected, notwithstanding any irregularity in the mode of getting at it.

The case from 4 T. R. 469, is of a different kind, and comes very near in substance to a verdict against substantive law ; covered, however, as is often the case, with the disguise of a presumption of fact. The marriage in that case was invalid ; but because, under the circumstances, it was unconscientious in the defendant to shelter himself under its invalidity, the jury found against him, not directly affirming the validity *quoad hoc*\* of the invalid marriage, but presuming that a subsequent valid marriage had taken place.

Such presumptions as the one made in this case, must be clearly distinguished from presumptions made for the purpose of reaching the truth of a matter of fact. These last presumptions belong exclusively to the subject of evidence ; but the presumptions in question are not made because the matter of fact is really believed, but because it is desired that the decision should be such as by law it would be if the matter of fact were true. In this case, for example, the presumption was not made because of the probability that a valid marriage had taken place, but because the assumption that such a marriage had taken place produced a state of facts upon which law and justice could pronounce the same decision ; whereas, if no valid marriage had taken place, law must have said one thing and justice another. If in this case the proof of a valid marriage would have produced an unjust decision, then no such marriage would have been presumed without proof. This sort of presumption, then, does not belong, or at least does not belong exclusively, to the head of evidence. It is in truth one  
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\* Buller J. seems to have thought that the verdict might be sustained upon that ground. In that point of view the case would not fall within any of our three classes.

of the artifices by which courts of justice have endeavoured, without legislating, to decide equitably in cases where the words of a law or of a contract are not what they would have been, if the legislator or the contracting parties had contemplated the particular state of facts which happens to call for a decision upon the law or contract in question.

When we come to make a code of substantive law for the Presidencies, and for all persons in the mofussil who may be subject to the *lex loci*, of which we recommended the declaration and enactment in our Report of 31st October 1840, we hope that we shall be able to supply the place of these presumptions, by laying down general principles of jurisprudence. In this very case Mr. Justice Buller said, "I doubt whether it was necessary to prove a legal marriage; considering the situation in which all the parties stood, I think that a marriage in fact was sufficient." This opinion (whether it be good English law or not signifies nothing to the present purpose), must have been founded upon some maxim of jurisprudence, never perhaps expressed, but capable of being expressed. Until, however, maxims of this kind which have not been incorporated into English law are expressed in a code, the presumptions of fact which are made to supply their place in the English system, may, we think, be usefully and consistently sanctioned.

The second class, then, may be described as those cases in which the courts have sustained a verdict consistent with equity and good conscience, though some presumption of fact has been made, or must, to sustain the verdict, be made, which would not be permitted to be made (the real probability of the fact being the same), if it operated against the equity and good conscience of the case.

In the three last cases, constituting our third class, the jury seems to have taken upon itself to mitigate the rigour of a rule of substantive law, by considerations of equity and good conscience, and the court to have refused upon the same principle to grant a new trial.

Upon this class of cases it would be sufficient at present to observe, that they are not such as an unprofessional Commissioner ought to take upon himself to decide: we shall, however, before we conclude this part of our Report, take occasion to express our opinion on this kind of legislation by tribunals, whose proper function is to administer law.

The mode by which we propose to guard against the danger of erroneous decisions of the unprofessional Commissioners on the one hand, and on the other hand against the danger that substantial justice may be defeated by an appeal from unprofessional to professional judges, is not by the introduction of any exotic principle into English judicature, but of a principle long known and acted upon in that system with very beneficial effect.

The principle is applicable also, and is applied by us, to the case of an appeal from an inferior to a superior professional judge, but it is never applied by us where a rule of substantive law has been infringed. In the English system it is not so applied, where the infringement has taken place by the misdirection of a professional judge, the reason of which is well worth considering for the sake of illustration.

In writs of error, nothing but questions of strict law come before the appellate court. On motions for a new trial, the court, as we have seen, does consider the question whether upon the whole justice has been done by the verdict, and in general sustains the verdict if it can decide that question in the affirmative. But there is an exception in the case where the verdict has been given in consequence of a misdirection by the judge. The courts will never sanction an incorrect proposition of law laid down by a judge, though they will sanction a verdict involving such a proposition, provided it have not been laid down by the judge. In the case of *Wilson v. Rastall*, Lord Kenyon says, "there is not a single instance where a new trial has been refused, in a case where the verdict has proceeded on the mistake of the judge;" and a little further on, "wherever a mistake of the judge has crept in, and swayed the opinion of the jury, I do not recollect a single case in which the court has ever refused to grant a new trial."—4 T. R. 758.

The principle of this exception we conceive to be, that the courts have felt, that when a proposition laid down by a judge is brought to their notice, they are bound to say either that it is law, or that it is not law, and in the former case to adopt it, and in the latter to reject it, to all intents and purposes. If, therefore, they adopt an incorrect proposition of law laid down by a judge, they adopt it

as a rule for other cases ; whereas, when they sanction a verdict involving an incorrect proposition of law, the incorrect proposition avails only as regards the particular case in judgment, and forms no rule for the future.

We do not mean that the whole case affords no authority for the decision of like cases coming before the court in the same way ; for if the course adopted was proper on one occasion, it must be proper on all occasions involving the same exigency. We mean only, that the erroneous proposition of law is not by this conditional sanction erected into a principle, and adopted with all its logical consequences. It is adopted so far only as it conduces to produce a decision consistent with equity and good conscience, and would no more be admitted as law in a case in which it is not required for this purpose, than those presumptions of which we have treated above would be admitted as proof of a fact in a case where the existence of such a fact is not required for the same purpose.

If a discretionary power to mitigate the pressure of rules of substantive law is to be given to the courts at all, we think it quite right that such a power should be thus limited. For every rule of law, so long as the legislature suffers it to subsist, ought to be presumed by the courts to be beneficial in its general operation, and therefore ought to be relaxed only in those particular cases (be they many or be they few) in which circumstances presumably not contemplated by the legislator, would cause a strict and literal execution of his commands to work injustice.

Our court, however, is not to be invested with any such discretionary power. It is to decide according to the substantive rules of English law, when they are not inconsistent with the substantive rules of English equity ; and when that is the case, according to those latter rules. If there are any cases in which a court applying those substantive rules by means of such a procedure as we recommend, will not reach the justice of the case, we think it better to call upon the legislature for a remedy, than to give a discretionary power to the judges.

We do not say that under no circumstances is such a discretionary power over the rules of substantive law desirable, but only that it is not desirable under the circumstances with which we are here concerned.

We have now explained the provisions made in our system for incorporating with general judicature the jurisdiction both original and appellate over those causes which, according to the English plan, are left to the uninformed equity and good conscience of courts of requests, unless the plaintiff chooses rather to submit to the expensive technicalities of the superior courts. We proceed to the consideration of a more obscure and difficult topic, viz. the incorporation of equitable with legal jurisdiction.

In the perusal of the following criticisms we beg it may be borne in mind, that we have selected such cases as most forcibly illustrate the evils of separating law from equity generally ; we have not confined ourselves to those cases which exhibit that particular portion of those evils for which we are now suggesting a remedy ; our object being not only to prove that the step we are now proposing to take is a step in the right direction, but also that the point which we intend as the terminus of our course in this direction, is the right terminus.

In our Report upon the substantive law to which, we think, all persons in the mofussil, not subject to Hindoo or Mahomedan civil law, should be subject, dated 31st October 1840, we expressed a strong opinion against the separate administration of law and equity which obtains in the English system. We contemplate as the ultimate result of our labours upon this subject, the administration by one uniform set of courts, of a code composed (with additions and alterations) of the materials supplied by English law and English equity. This result, however, must be regarded as distant ; but the present occasion appears to be a fit one for taking a very important step towards it. The nature and extent of that step will be understood from what follows.

The subject is very intricate, and much adventitious obscurity has gathered about it, from the want of accurate distinction between schemes for investing courts of law with equitable powers by means of legislative interposition, and schemes for doing the same thing by mere judicial authority. All schemes of the latter kind must be defective, must be productive of consequences not desired by the framers of them ; because no judge, however much disposed *ampliare jurisdictionem* for the benefit of the suitors in his court, can venture by mere judicial authority to assume all the powers and to create all the machinery which

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are necessary for the effectual exercise of equitable jurisdiction. The legislature alone can give these powers and this machinery.

The opponents of this branch of law reform can say with truth that Lord Mansfield failed in his attempt to accomplish it; that Lord Kenyon, Lord Eldon, and Lord Redesdale have pronounced his attempts to be extremely mischievous; and that Mr. Justice Buller, who was his favourite disciple, is believed, upon the high authority of Lord Eldon, to have recanted in his latter days, when mature experience had shown him the fallacy of his early opinions.

If these statements could neither be answered nor explained away, it would be impossible to deny that they form a very strong presumption against the success and the prudence of any such enterprize as that in which we are now endeavouring to engage the Government of India. But a careful examination of the leading cases at law and in equity, upon which these statements are founded, will show that they may be completely explained away, so far as regards our purpose, by the distinction above brought to view. Perhaps, also, it will appear from this examination, that even the inherent deficiency of the instrument with which Lord Mansfield worked, would not have rendered the attempt so unavailing, if the zeal and industry of later judges and Chancellors had not been so steadily exerted to counteract it. If, instead of this, Lord Mansfield's doctrines had been followed, it is probable that the public opinion on the subject would have been changed, and that the legislature would in time have conferred the necessary powers upon the common-law courts. It is possible also, that Lord Mansfield thought the process of attachment might be employed for enforcing any equitable jurisdiction which the courts of law might succeed in acquiring.

Sir James Scarlett (now Lord Abinger), in a communication to the Commissioners on Courts of Common Law (from which we have borrowed some of the provisions of our scheme), published in the Appendix to their first Report, expresses himself as follows:

“The courts of common law should be possessed of sufficient power in all cases of actions properly brought before them, to oblige the parties to do justice to each other, without having recourse to a bill in equity. Those who look to the history of the common law from the accession of Lord Mansfield to his high station in the Court of King's Bench will perceive, that if the same liberal and enlightened spirit had always prevailed in the courts of common law, many of the difficulties in the way of suitors would long since have vanished: he first allowed a defendant to have a commission from the court for examining witnesses abroad. The legislature has slowly and at length allowed the same privilege to a plaintiff.”—p. 655.

We proceed to the examination of the cases. Lord Mansfield, finding himself frequently obliged in the Court of King's Bench to do what he felt to be unjust, and what he knew that the courts of equity would on that account render of no effect, looked anxiously for every occasion on which, by the exercise of judicial discretion, he might assimilate the doctrines of his court to those of the equity courts, and thus do justice at once to his suitors, instead of driving them to seek it elsewhere at the cost of much money and much time. For this he was stigmatized by Junius as an “admirable Prætor,” and by Lord Redesdale from the bench as having “on his mind prejudices derived from his familiarity with Scotch law.” The desire of a judge to be saved from the necessity of doing manifest injustice might, one should think, be accounted for without having recourse to prejudices in favour of the Scotch or Roman systems. Lord Mansfield, no doubt, admired this part of those systems, because he desired to decide justly; he did not desire to decide justly because he saw in those systems the means of doing so.

One occasion which presented itself to him of assimilating the decisions of his court to the decisions in equity, was the execution of powers of appointment.

In the case of *Rattle v. Popham*, it appeared that upon a marriage settlement a power was given to every tenant for life, when in possession, to limit the premises to any woman he should marry for her life, by way of jointure, and in lieu of dower. The tenant for life made a lease for 99 years determinable on the death of his wife. Lord Hardwicke, in a court of law, held the lease not to be warranted by the power. The widow brought her bill in the Court of Chancery, and Lord Talbot, arguing from the same premises, the power and the lease, without any other circumstance, held the lease to be warranted by the power, and decreed the defendant to pay all the costs both at law and in equity. —See 2 Strange 992; 2 Burr. 1147; 7 T. R. 480; and Cunningham 102.



Lord Mansfield thought this a very inconvenient and absurd collision of law and equity, and he thought moreover that on this particular subject, viz. the execution of powers of appointment, the collision was not rendered necessary, nor even justified by technical principles. He thought that powers of appointment, being originally in their nature equitable, and only falling under the cognizance of courts of law by virtue of the Statute of Uses, whatever is a good execution of a power in equity ought to be a good execution at law. He seems, however, to have been fully aware, that both the legal and equitable decisions on the subject were inconsistent with this doctrine.

The short history of this matter is as follows:—In Whitlock's case, 8 Rep. 69 b., it was laid down and agreed by the whole court, that under a power to make an estate for three lives, the donee cannot make a lease for 99 years determinable upon three lives.

This resolution of the Court of King's Bench, Lord Nottingham, when Lord Keeper, declared might be laughed at. This was in the case of *Smith v. Ashton*, Mich. 1675. In *Freeman's Cases in Chancery*, Appendix 309, he is thus reported, "but when it doth appear that it was intended the person should have such a power, the Court of Chancery will not be strict in all the circumstances of executing it; and he said the resolution in Whitlock's case, 8 Co. (where an estate is made for 99 years, if three lives lived so long, in pursuance of a power to make leases for three lives), may be laughed at; and therefore although *æquitas sequitur legem*, generally, yet sometimes *lex sequitur æquitatem*, and the judges of late have made larger constructions of powers, as appears in *Cumberland's case*, 2 Roll. 262."

It does not here appear, with perfect distinctness, whether Lord Nottingham meant that the decision in Whitlock's case might be laughed at because it was bad law, or only because it was such law as a court of equity would take care to render of no effect. But enough appears to warrant us in believing, that this eminent Chancellor did not (as some later equity judges have done) hold it to be the duty of the common-law judges to persist in making decisions at law, which were sure to be laughed at in equity.

It was, however, upon the authority of the resolution in Whitlock's case, that the above-mentioned case of *Rattle v. Popham* was decided at law.

Lord Mansfield's opinion upon that case, and upon the subject in general, is expressed in the case of *Zouch v. Woolston*, 2 Burr. 1146:—

"There is good sense in what Mr. Dunning said (Mr. Dunning was counsel for the defendant), that executions of powers should have the same construction, force and effect in courts of law, which they have in courts of equity, because the Statute of Uses transferred that mode of real property from equity to the common law. Whatever is a good power or execution in equity, the statute makes good at law."

This and other observations of Lord Mansfield in the case of *Zouch v. Woolston*, gave rise to the violent assault which Lord Redesdale made upon him in the case of *Shannon v. Bradstreet*, 1 Schol. and Lef. 52:—

"Lord Mansfield had on his mind prejudices derived from his familiarity with the Scotch law, where law and equity are administered in the same courts, and where the distinction between them which subsists with us is not known; and there are many things in his decisions which show that his mind had received a tinge on that subject not quite consistent with the constitution of England and Ireland, in the administration of justice. It is a most important part of that constitution, that the jurisdictions of the courts of law and equity should be kept perfectly distinct; nothing contributes more to the due administration of justice. And although they act in a great degree by the same rules, yet they act in a different manner, and their modes of affording relief are different; and any body who sees what passes in the courts of justice in Scotland, will not lament that this distinction prevails. But Lord Mansfield seems to have considered that it manifested liberality of sentiment to endeavour to give the courts of law the powers which are vested in courts equity; that it was the duty of a good judge *ampliare jurisdictionem*. This, I think, is rather a narrow view of the subject; it is looking at particular cases rather than at the general principle of administering justice, observing small inconveniences, and overlooking great ones. On this argument of Mr. Dunning, Lord Mansfield said that 'there was good sense in what he said,' and that 'whatever is a good power or execution in equity, the Statute of Uses makes good at law:' very good; but the statute does not make good at law what was not good in equity, but which a court of equity, by its peculiar

peculiar mode of acting, will make good. This distinction Lord Mansfield was much disposed to overlook; for example, he considered contracts for leases to be leases, and was followed by Mr. Justice Buller. Great inconveniences ensued, which are now happily got rid of. A court of equity makes good a contract by decreeing an actual lease; a court of law cannot do so. Lord Mansfield inclined to hold a party bound by a contract not to set up his legal title in ejectment, and so in many other instances; forgetting what he himself had been familiar with in his practice in equity, and that he would endanger half the titles in the kingdom.

"Mr. Justice Buller held, that when a mortgage term had been once assigned in trust to attend the inheritance, the owner of the term could not make it a mortgage term again, and in consequence he drove the mortgagee into a court of equity, and produced that very mischief which Mr. Justice Wilmot, in *Zouch v. Woolston*, considered to be a very grievous one; Lord Mansfield is represented by the Reporter in the case of *Zouch v. Woolston*, as having said that 'after the Statute of Uses, courts of equity reasoned as they would have done if that statute had not been made. And yet, whatever is an equitable ought to be deemed a legal execution of a power; for there can be no circumstance to affect a remainder-man personally in conscience when a power is not duly executed, any more than the issue in tail or the successor of an ecclesiastical person if a lease is not duly made.' If these words really dropped from Lord Mansfield, he must have totally forgotten all that passed while he was in practice in courts of equity. This would overturn the case of *Coventry v. Coventry*, and all the cases on jointuring powers. The cases of tenant in tail and of ecclesiastical persons are totally different; there was no power to bind a remainder-man arising from the nature of an use previous to the Statute of Uses; and as to ecclesiastical persons, they are prevented by statute from making leases except pursuant to the statute, and all leases not made pursuant thereto are expressly made void against the successors, to all intents and purposes. The same Reporter makes Mr. Justice Wilmot say, 'it is much to be lamented, that after the Statute of Uses the courts of common law had not adopted all the rules and maxims of courts of equity.' It is scarcely to be believed that this could have fallen from Mr. Justice Wilmot; and if Lord Mansfield found fault with the decision in the case of *Rattle v. Popham*, as he is represented to have done, I think, with deference, that there was no ground for the remark. I must therefore consider what is thus attributed to Lord Mansfield and Mr. Justice Wilmot in the case of *Zouch v. Woolston*, as of no authority on this subject; and I think I am warranted by the decision in *Campbell v. Leach* (made with the concurrence of such high authorities as Lord Chief Justice De Grey, and Chief Baron Smyth) in saying, that a contract of this description does bind a remainder-man."

Before we proceed to consider these objections of Lord Redesdale with reference to our own purpose we must endeavour to clear up some of the difficulties which appear to us unnecessarily to perplex this controversy. When Lord Redesdale insinuates that the expressions attributed to Lord Mansfield and Mr. Justice Wilmot\* are so absurd that it is hardly to be believed that they really could

\* When Lord Redesdale said "it is scarcely to be believed that this could have fallen from Mr. Justice Wilmot," he was, perhaps, only using a courteous form of expressing his abhorrence of the doctrine against which he was contending. If he really meant to express a doubt whether Mr. J. Wilmot had said what Sir J. Burrow attributes to him, we think that doubt may easily be dispelled.

In the life of Chief Justice Wilmot it is stated, that, "He uniformly lent Mr. Burrow his papers, with such short notes as he took himself," p. 14. It is therefore very unlikely that the reporter should have misapprehended his meaning.

But there is independent evidence that the opinion in question, viz. that "it is much to be lamented that after the Statute of Uses the courts of common law had not adopted all the rules and maxims of courts of equity," was in accordance with, or rather was only a particular case of the general opinion which Chief Justice Wilmot entertained upon the English system of law and equity. In the case of *Collins v. Blantern* he is reported to have used the following words:

"The third point is, whether this matter can be pleaded. It is objected against the defendant that he has no remedy at law, but must go and seek it in a court of equity; I answer, we are upon a mere point of common law, which must have been a question of law long before courts of equity exercised that jurisdiction which we now see them exercise; a jurisdiction which never would have swelled to that enormous bulk we now see, if the judges of the courts of common law had been anciently as liberal as they have been in later times; to send the defendant in this case into a court of equity, is to say that there never was any remedy at law against such a wicked contract as this is. We all know when the equity part of the Court of Chancery began. I should have been extremely sorry if this case had been without remedy at common law. *Est boni judicis ampliare jurisdictionem*, and I say, *est boni judicis ampliare justitiam*; therefore, whenever such cases as this come before a court of law, it



could have used them, he seems to us to be under a great misapprehension of their meaning, and also to suppose that the differences between them and his own opinions were more numerous than in truth they were.

The only fundamental difference, from which all the rest are deducible, is as to what is a good execution of a power in equity, putting law out of the question.

Lord Redesdale admits, that whatever is a good power or execution in equity, the Statute of Uses makes good at law; but he implicitly denies that such an execution of a power as the lease in the case of *Rattle v. Popham*, is good in equity. According to him, it is only such an execution as a court of equity, by its peculiar mode of acting, will make good. Lord Mansfield, and Mr. Justice Wilmot, on the other hand, would have said, and, as it appears to us, with rigorous accuracy, that the lease was a good execution in equity; and that the only reason why a court of equity acts in such cases in the peculiar mode alluded to, is for the purpose of making such an execution of a power good at law. And consequently, if the courts of law had (as Lord Mansfield thought they ought) held such executions of powers to be good at law by the statute, because they were always good in equity, there would have been no necessity for courts of equity to interpose with their peculiar mode of acting, so far as regards the execution of powers. When Lord Mansfield held an agreement for a lease to be a lease, he was proceeding on different grounds. The Statute of Uses did not help him then. He was no longer availing himself of technical principles to get at equity in a court of law, but encroaching upon equitable jurisdiction, with no other excuses than the desire of doing justice, the equitable origin of the purpose to which the action of ejectment has been applied, viz. that of recovering the land, and the doctrine that ejectment, being a fictitious action invented by the courts, no party ought to be permitted to prevail in it against good conscience. But in his doctrine respecting the execution of powers, he was able to deduce the conclusions at which he desired to arrive, from the letter and spirit of the Statute of Uses, that statute having converted a large portion of equity into law. We do not think it necessary to quote any of the numerous equity cases in which it is distinctly laid down, that such an execution of a power as the one in question, is good in equity. It would, indeed, be sophistical to quote them against Lord Redesdale; for he, of course, did not mean to dispute the proposition as it is used in those cases, but only to explain it. To show (that is) that when the authorities say a good execution in equity, they mean an execution which will be made good in equity by the mode of acting peculiar to the courts administering that system. That is the real question on which Lord Mansfield's opinion and Mr. Justice Wilmot's, are to be set against Lord Redesdale's; and it is not properly a question of English equity, but a question of general equity, and one of which none of the English equity cases afford any solution. It could not, indeed, ever arise for practical solution in any English court of equity. It could only arise for practical solution in a country where there are no courts but courts of equity.

The question, stated generally, is this. When A is bound in conscience (as for example by having contracted) to make a good title to B, why does a court of equity direct him to execute a conveyance? Is it for the purpose of conferring upon B a good title both at law and in equity, or merely a good title at law? We conceive it is for the latter purpose only.

So little has this part of the theory of our legal constitution been considered, that, as far as we know, the only authorities on it are, first, that of Lord Mansfield and Mr. Justice Wilmot themselves, in this case of *Zouch v. Woolston*, and some other cases (if we are not mistaken in supposing that this doctrine is involved in them), and secondly, that of Professor Austin, in his notes to the Table containing "The arrangement which was intended by the Roman Institutional Writers (according to the opinions current amongst civilians from the latter portion of the 16th to that of the 18th century)."

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is for the public good that the common law should reach them and give relief. I have always thought that formerly there was too confined a way of thinking in the judges of the common-law courts, and that courts of equity have risen by the judges not properly applying the principles of the common law, but being too narrowly governed by old cases and maxims, which have too much prevented the public from having the benefit of the common law." 2 Wils. 350.

"According to English equity," says Mr. Austin, (*i. e.* according to the law which certain of our courts administer) "a sale and purchase, though it is styled a contract, imparts to the buyer, without more, dominion or *jus in rem*. In the technical language of the system, what is agreed to be done is considered as done. The subject of the sale is his, as against the seller especially; and the subject is also his, as against the world at large. The only interest in the subject which remains to the seller is a right in *re aliend*, a mortgage or lien expressly or tacitly created, to the end of securing the equivalent for which he has aliened.

"But according to the antagonist system, which is styled pre-eminently Law, a sale and purchase, without more, merely imparts to the buyer *jus ad rem*. The seller is obliged by the sale to transfer the subject to the buyer, and, in case he break his obligation by refusing or neglecting to transfer, the buyer may sue him on the breach, and recover compensation in damages. But that is the extent of the right which the sale imparts. The property or dominion of the subject still resides in the seller, and, in case he convey the subject to a third person, the property or dominion passes to the alienee.

"Now, if the antagonist law were fairly out of the way, the right of the buyer according to equity would stand thus: Unless the seller refused to deliver the subject, and the buyer, in that event, were satisfied with his right to compensation, the sale and purchase, though styled a contract, would give him completely and absolutely dominion, or *jus in rem*. He could vindicate or recover the subject as against the seller himself, and as against third persons who might happen to get the possession of it. The so-styled contract would amount to a perfect conveyance.

"But, by reason of the dominion or property which remains to the seller at law, the sale and purchase, even in equity, is still imperfect as a conveyance. In order that the dominion of the buyer may be completed in every direction, something must be done on the part of the seller. He must pass his legal interest in legal form. He must convey the dominion or property which still resides in him at law, according to the mode of conveyance which law in its wisdom exacts.

"To this special intent or purpose, the buyer, even in equity, has merely *jus in personam*, or (borrowing the language of the Roman lawyers) the subject of the sale, even in equity, continues *in obligatione*.

"Speaking generally, the buyer, in contemplation of equity, has dominion or *jus in rem*, and speaking generally, the sale, in equity, is therefore a conveyance.

"But to the special intent or purpose which is mentioned above, the buyer has *jus in personam*, or (changing the shape of the expression) the seller remains obliged. This right *in personam certam* and this corresponding obligation, equity will enforce in specie. And in respect of this right *in personam*, and of this corresponding obligation, the sale, even in equity, is properly a contract."

This is a very explicit statement of the general doctrine of English equity; and, if it is also a correct one, it follows, with regard to the execution of powers for meritorious consideration, that, as soon as the Statute of Uses had put "the antagonist law fairly out of the way," every court in the country ought to have held that such an execution of a power as was, speaking generally, a conveyance in equity before the statute, and only not a conveyance in equity for the special purpose of enforcing the obligation to make such a conveyance as "law in its wisdom exacts," every court in the country, we say, ought to have held such an execution to be a perfect conveyance to all intents and purposes.

Now, if this doctrine be kept in view in the examination of the dispute about the execution of powers, it will be seen that (be the doctrine correct or incorrect) Lord Mansfield knew perfectly well what he was about, that there is no ground for accusing him of having forgotten all that passed while he was in practice in courts of equity, and of overturning all the cases on jointuring powers, nor for assuming that he held a contract of the sort in question not binding on a remainder-man.

Sir E. Sugden, in his work on Powers, adopts Lord Redesdale's view of the question of general equity, and also his two suppositions; first, the supposition that Lord Mansfield was altogether forgetting that question, whereas we believe

that it was distinctly present to his mind, and that all his conclusions are logically deduced from it; and secondly, the supposition, which we believe to be equally unfounded, that Lord Mansfield thought his doctrine, that the execution of powers should receive the same construction at law as in equity, was in accordance with the course which, under the existing circumstances, courts of equity had adopted.

On the question of general equity, and on the supposition that Lord Mansfield had neglected it, Sir Edward Sugden merely adopts what Lord Redesdale had said. But with respect to the other supposition he observes, "Lord Mansfield adduced this decision of Lord Talbot's (the decision in equity in *Rattle v. Popham*) in support of his favourite doctrine, that whatever was an equitable, ought to be deemed a legal execution of a power. In a late case before Lord Redesdale, in which he combated this doctrine, he said that if Lord Mansfield found fault with the decision in the case of *Rattle v. Popham*, as he was represented to have done, he (Lord Redesdale) thought, with deference, that there was no ground for the remark; and indeed, notwithstanding Lord Mansfield's assertion, it appears from a manuscript note of the case, which will be found in the Appendix to this volume, that Lord Talbot admitted clearly that the power was not well executed at law, but he relieved the wife against the defective execution on the general rule of equity."

Now there is no assertion of Lord Mansfield inconsistent with this version of the case. He never meant to say that Lord Talbot found fault with the decision at law. He did not adduce the case in support of his own favourite doctrine, but for the purpose of showing what mischiefs had ensued because courts of law had omitted to adopt that doctrine, and had thus driven courts of equity to deal with these cases, just as if the Statute of Uses had never been enacted.

All this derives strong confirmation from what Lord Mansfield himself afterwards said, in the case of the *Earl of Darlington v. Pulteney*:—

"It is very difficult to maintain on any principle of law, reason or convenience, a distinction between equitable and legal executions of powers, which were originally in their nature equitable, but they are by the Statute of Uses transferred to common law. Mr. Kenyon has said very truly, that at common law, powers were unknown. They were modifications of trusts, and directions to the trustees which bound his conscience, and which he was compellable in a court of equity to execute. The Statutes of Uses transferred entirely all that was equitable into a legal modification; and the courts of law were then bound to ask what was the equity. It has likewise been very truly said, that there were few cases upon the execution of powers before the statute 27 H. 8, c. 10, and none have come down to our time by way of precedents. Powers, therefore, being a new thing, and the courts of law having no equitable precedents in point to guide them, compared them at first to conditions, which they are not at all like; and consequently held that they should be construed strictly. They looked upon them in the lights of powers vested in a third person over the estate of another man; whereas in fact they are only a different species of ownership, and enjoyment of property. But a long series of precedents has now settled in the Court of Chancery, that in the construction of powers, wherever the power is executed for a meritorious consideration, namely, as a provision for a wife or child, or for the benefit of creditors or purchasers, there the precise form prescribed for its execution need not be strictly pursued, and if it is now settled, it is settled on principles that existed before.

"That being the case, courts of law ought to follow equity, because there should be a general rule of property; and, if the courts of equity say, we will presume that when the execution is for a meritorious consideration, a strict adherence to the precise form was not intended, and therefore it is not necessary; the moment the same rule is fixed and adopted at law, every man who creates, and every man who is to exercise a power, understands what he is to do. In the construction of powers, originally in their nature legal, courts of equity must follow the law, be the consideration ever so meritorious; for instance, powers by a tenant in tail to make leases under the statute, if not executed in the requisite form, no consideration ever so meritorious will avail. So with respect to powers under the Civil List Act, powers under particular family entails, as the case of the Duke of Bolton, &c.; equity can no more relieve from defects in them, than it can from defects in a common recovery. The principle upon which

which the rule of construction in these cases is founded is, that there is nothing to affect the conscience of the remainder-man. Therefore it is difficult upon principles to maintain any distinction between equitable and legal execution of powers."—Cowp. 266.

It is remarkable that Lord Redesdale takes no notice of this case. Yet, if Lord Mansfield's reasoning in it is considered with care, and without a disposition to find him in the wrong, his meaning can scarcely be misapprehended. His doctrine and that of Mr. Justice Wilmot, unaltered in substance, but shaped so as to obviate the misunderstanding to which it has been subjected, may perhaps be thus expressed.

As soon as the Statute of Uses had passed, courts of law were bound to ask what was the equity, because the statute said that the law should follow the equity. But unfortunately, having no equity precedents to guide them, they took a wrong direction, and, comparing powers to conditions, which they are not at all like, held that they should be construed strictly. A long series of equity precedents has now settled, that wherever the power is executed for a meritorious consideration, the precise form prescribed for its execution need not be strictly pursued. It is true these precedents are all since the Statute of Uses; but they proceed on principles of equity that existed before the statute, principles therefore which the courts of law ought to have adopted immediately upon the passing of the statute. If they had done so, there would now be a general rule of property. A clear intention to execute a power for a meritorious consideration appearing in writing, would be a good execution of the power both in equity and at law. There would be no occasion for courts of equity to exercise in these cases their peculiar authority, of compelling a party to do what in conscience he ought to do. They have only been driven to exercise that peculiar authority by the mistake which courts of law made in not adopting equitable principles after the statute, neither would there be any occasion to adopt the questionable doctrine that a remainder-man is bound in conscience to do what the particular tenant ought in conscience to have done; for the remainder-man in these cases would be bound in law by what the particular tenant had actually done; and "the case of *Coventry v. Coventry*, and all the cases on jointuring powers," so far from being overturned, would thus rest on a more intelligible and secure foundation.

This, as it seems to us, was the doctrine of Lord Mansfield and of Mr. Justice Wilmot, to which they desired to bring back the courts wherever they were not bound by express decisions. But they never meant to say that their doctrine had been adopted even by courts of equity. On the contrary Lord Mansfield expressly says, that after the Statute of Uses, courts of equity reasoned as they would have done if that statute had not been made. That is to say, finding that, notwithstanding the statute, courts of law did not inquire what was the equity, and follow it, and that the statute was therefore pro tanto a dead letter, they had no other means of enforcing equity but by doing as they would have done before the statute, that is to say, by decreeing such formal assurances, or adopting such other modes as would protect the parties from the effect of the erroneous doctrine adopted by the courts of law.

We have now shown perhaps, that Lord Mansfield and Mr. Justice Wilmot were technically right in thinking, that a clear intention to execute a power for a meritorious consideration appearing in writing, is actually a complete execution in equity, putting law out of the question. But at all events we have shown that Lord Mansfield and Mr. Justice Wilmot assumed that proposition, and that, if it be assumed, their whole doctrine is coherent and intelligible, at variance with the decisions at law, and even with the decisions in equity so far as these last admit the correctness of the decisions at law, but in other respects not subversive but confirmatory of them.

It was necessary to clear away the obscurity which hangs over this controversy, before we could say with confidence, as we now can, that (with one exception to be presently noticed) none of Lord Redesdale's or Sir E. Sugden's arguments against permitting courts of law to adopt equitable doctrines, apply to our plan. Those arguments all depend upon the inability of courts of law to compel specific performance; but the court we are recommending is to have that power.

In another point of view, the long discussion into which we have been led, has

a practical value directly applicable to the general purpose of this Report. For we believe that nothing is more calculated to throw light on the somewhat abstruse subject of English equity, than a careful examination of this remarkable controversy.

It is most probable, as we have already hinted, that Lord Mansfield, if he had succeeded in making his doctrine the practical rule of the courts of law, intended either to procure from the legislature an express authority to compel specific performance, or to use the power of granting an attachment, which is inherent in the courts of law, for the accomplishment of that purpose. But however this may be, the arguments of Lord Redesdale (with one exception) have no application to any court which is effectually in possession of such a power.

The exception is the argument drawn from the alleged defects of the Scotch courts, and it is a mere sophism.

The Scotch courts are bad. The Scotch courts administer law and equity together; therefore, courts which administer law and equity together are bad.

Not only is the argument vicious, but the viciously deduced conclusion is a different proposition from the conclusion aimed at by all the sound arguments which Lord Redesdale employs.

The conclusion deduced from the vicious argument is, that law and equity cannot be properly administered by the same courts.

The conclusion aimed at by the sound arguments is, that equity cannot be properly administered by a court not furnished with powers and machinery like those of the English Courts of Chancery and Exchequer.

This difference, glaring as it is, was not perceived by Lord Redesdale himself (for we cannot suppose that he intended to mislead), and consequently he has not pointed it out. The result is, that among lawyers, and that large class who take their opinions upon such subjects from lawyers, an opinion prevails that Lord Redesdale has shown the project of administering law and equity in the same court to be a plausible but shallow scheme, which cannot bear the test of a learned and searching inquiry.

The next of Lord Mansfield's attempts to introduce equity into a court of law which we shall notice, is the case of *Weakly ex dem. Yea v. Bucknell*, Cowp. 473. Sir Wm. Yea had agreed to grant the defendant a lease for 21 years from Lady-day 1758. The defendant had been in possession and paid the rent for 18 years, but no lease was ever granted or demanded by the defendant. On the 13th September 1775, notice in writing was given by the lessor of the plaintiff "to quit at Lady-day 1776." The question was, whether the lessor of the plaintiff was entitled to recover.

Lord Mansfield stopped Mr. Gould, who was about to argue for the defendant, saying there was no occasion to give himself any trouble in so plain a case.

He then adverted to the want of a stamp (a matter foreign to our purpose) and proceeded thus: "It is an agreement for a lease for 21 years; and the defendant has been in possession *eighteen* of them. Then the lessor of the plaintiff gives notice to quit and brings an ejectment. He has agreed for a valuable consideration not to give notice. Shall he then give notice? There might be circumstances perhaps which might let him in to maintain an ejectment. For instance, if he had tendered a lease, and the defendant had refused to execute it, whereby the plaintiff had incurred a loss. But here there is no such circumstance; and if the court were to say this ejectment ought to prevail, it would merely be for the sake of giving the Court of Chancery an opportunity to undo all again. If the lessor of the plaintiff should recover at law, equity would immediately set it right, and he would be obliged to pay the costs of both suits."

This doctrine was not approved of in England, and the contrary seems to have been considered as established in the case of *Yea Bart. v. Rogers*, which was argued before all the Judges in the Exchequer Chamber. A second argument was awarded, but the case was never brought before the judges again. "As I collected at the time (says Mr. East, now Sir E. H. East), Lord Loughborough, Chief Justice; Gould, Ashurst and Buller, Justices, were of opinion, that the defendant's equitable title might be set up as a defence to the ejectment. Lord Kenyon, Chief Justice; Eyre, Chief Baron; and Heath, Justice, were decidedly of a different opinion: and with these it is probable that the other judges coincided, though I have no authority for saying so; and no public opinion

opinion was ultimately delivered on the case. But that an equitable title cannot be set up in ejectment has ever since been considered as settled."—See 5 East's Reports, 138 n. (a.)

In this manner Lord Mansfield's equitable doctrines respecting agreements for leases were quietly got rid of in England. In Ireland their fate was somewhat different. There they appear to have been followed by the courts, but to have called forth a very vehement protest from Mr. Justice Kelly, in the case of *Lessee of Lord Massey v. Touchstone*, 1 Scho. and Lef. 67 n. (c.)

The action was an ejectment. Lord Massey had agreed "to set the farm of Knockmore to the said Bennet and Touchstone jointly and severally, for the term of three lives to be named by them, at the rent and on the terms mentioned in the within and above proposal (a proposal containing the terms), to commence on the first day of May next. Leases to be perfected at the request of either party."

Lord Carleton, Chief Justice, and the other two judges, relied upon the distinction between a clear and a doubtful equity, holding this to be of the latter sort, and declining to give any opinion on the question, whether if there had been a clear equity for the defendant, it would have availed him.

Mr. Justice Kelly delivered his opinion as follows:—"I could wish that the learned Lord (Lord Yelverton) who delivered his opinion upon this case at Nisi Prius had had an opportunity of considering his own judgment; and I am sure he would now have decided this question in another manner; but he had the authority of a very great judge, and it misled him. Let us consider a moment whether it would not subvert all the rules of discrimination between law and equity, if we were to say that this verdict ought to stand. Lord Carleton, with his usual cautious discretion, has declined entering into a consideration of the authorities on which the argument is founded; but I will do so. For the very first time I ever read that case of *Yea v. Bucknell*, in Cowper, I was astonished at it, and saw that it would be a decision productive of very great mischief. It is admitted in this case that the plaintiff has a clear legal title, and that the defendant has no legal title, but merely an equitable one: then it becomes a question (and till the decision in *Yea v. Bucknell*, it never was a question) whether a legal title should succeed in a court of law against no legal title. I have some experience in these courts, and before Cowper's Reports were published in this country, I will venture to say that no attempt to set up an equitable defence in ejectment, where the plaintiff's title was clear at law, was ever made. See the consequences that follow from the practice. The defendant has an equitable title only, if the plaintiff cannot recover at law, that title will remain a good defence to the defendant for ever, in every ejectment brought by the plaintiff, unless the court of law shall make itself a court of equity; if the defence is good now it will be good 20 years hence: then see the situation of the lessor of the plaintiff. He cannot recover; the defendant holding possession, pays him no rent, names no lives, and yet remains in possession unless the plaintiff goes into a court of equity; was there ever an instance where a man who wanted a specific execution was permitted to drive the person having the legal title, into equity. Where a man, having a legal title, was forced into equity against a person having barely an equitable title. In this very case, for example, see how principles would be subverted. Suppose the defendant were driven into a court of equity, he might go thither with a clear case to entitle him to relief; but if the plaintiff is driven into equity, the defendant lies under no difficulty if he can only prove his article, whereas the plaintiff cannot succeed, for a court of equity will dismiss his bill and tell him 'your title is at law; go into a court of law,' and then it will come to this, that the plaintiff will not be relieved either at law or in equity; at law this article bars him, and having a title at law, he cannot go into equity."

These consequences are certainly of a startling kind, but that they are deducible from any doctrine of Lord Mansfield understood in the sense in which he intended it to be understood, cannot be admitted. Mr. Justice Kelly, indeed, only asserts that they are so deducible 'unless the court of law shall make itself a court of equity.' But he must have known perfectly well that Lord Mansfield did intend to this extent to make his court a court of equity, and therefore the elaborate exposition he gives of the absurd consequences which would have followed if Lord Mansfield had meant what he did not mean, was, to say the least, unnecessary.



"If the defence is good now, it will be good 20 years hence." True, if the circumstances remain the same.

"Then see the situation of the lessor of the plaintiff. He cannot recover; the defendant holding possession, pays him no rent, names no lives, and yet remains in possession, unless the plaintiff goes into a court of equity." So says Mr. Justice Kelly. But what would Lord Mansfield have said? We know what he would have said, not only from the reason of the thing, but from what, for the purpose of guarding against this very misapprehension, he actually did say in the case of *Yea v. Bucknell*. "There might be circumstances, perhaps, which might let him in to maintain an ejectment. For instance, if he had tendered a lease, and the defendant had refused to execute it, whereby the plaintiff had incurred a loss." From this it is quite manifest that in the events supposed by Mr. J. Kelly, Lord Mansfield would have said, "The defendant names no lives, and thereby prevents the lessor of the plaintiff from performing his agreement. The defendant pays no rent, and thereby the lessor of the plaintiff has incurred a loss. These circumstances let him in to maintain an ejectment notwithstanding the agreement, which would otherwise have barred him."

This branch of Mr. J. Kelly's attack fails, then, entirely for want of a foundation. We proceed to consider the remaining branch which relates to the supposed incompetence of a court of law to appreciate the equity in such cases.

"I have heard a distinction mentioned (it is in one of the English cases) between a clear equity and a doubtful equity. I would be glad to know how it is possible for a judge, sitting in a court of law, to say that any thing is a clear equity. That is a matter that depends on all the facts of the case, and not on the instrument: a judge in a court of law has nothing to do with equity; he must leave it to its proper tribunal; he cannot form an opinion without going into all the circumstances of the case, and would a court of law permit a defendant to go into all the evidence in the case necessary to show that he had what is called a clear equity? For instance in this case, to prove that all the particulars of this article were performed. See what a scene of evidence you must go into. Further, the judge at Nisi Prius in this case could not say the defendant's title is equitable, unless he lets the plaintiff go into a case to show that it is not; then the plaintiff must come prepared to examine witnesses as to every circumstance in the equitable agreement. Thus the judge makes himself a judge of equity in a court of Nisi Prius, and leaves it to the jury to determine whether the defendant is entitled to a specific execution."

The zeal of this defence of the sacred boundaries between law and equity appears to us much more conspicuous than the discretion. Mr. Justice Kelly seems entirely to have forgotten that the agreement in this case, and all the circumstances of performance and non-performance are beyond all question the proper, legitimate, constitutional subjects of common-law jurisdiction. If the defendant in this case had brought an action against Lord Massey for a breach of his agreement to grant a lease, nothing is more certain than that the judge and jury at Nisi Prius must, in order to say whether there was any breach of the agreement and to estimate the damages, have gone into all that scene of evidence which is here represented as being altogether beyond their power and their competence.

The whole of this argument of Mr. Justice Kelly is a fallacy, based upon the groundless assumption that this agreement, and the performance or non-performance of it, are matters exclusively for the cognizance of courts of equity. He calls it an "equitable agreement." It is not an equitable agreement; it is a strictly legal agreement. All that is equitable in the matter, all that can with any colour of reason be alleged to be beyond the competence of a court of law, is the title to the land arising out of the legal agreement.

The fallacy of Mr. Justice Kelly's argument may be placed in a still more striking light, by considering the foundations of the power assumed by the courts of equity to compel specific performance. Great legal authorities have looked upon the assumption as an unwarrantable intermeddling with things which are the proper subjects of legal cognizance. In the case of *Bromage v. Jenning*, Roll. Rep. 368, pl. 21, the court of King's Bench granted a prohibition to the Marches of Wales to prevent a suit in equity upon a promise for good consideration to make a lease, because the party might have an action upon the case at common

common law. "And it being urged that this was usually done in Chancery, Coke, Doddridge and Haughton replied, that without doubt a court of equity ought not to do so, for then to what purpose is the action upon the case and covenant? And Coke said, this will subvert the intent of the covenantor, when he intends to have it at his election, either to lose the damages, or to make the lease, whereas here they would compel him to make the lease against his will; and so it is if a man be bound in a bond to infeoff another, he cannot be compelled to make a feoffment; and by Doddridge, if a decree be made that he should make a lease, and he will not do it, there is no other remedy but to imprison his body, and the serjeant who moved it, confessed that he did it against his conscience by reason of the use," and a prohibition was granted accordingly.

The objection here made to the remedy of specific performance, viz. that it renders useless the common-law remedies by action on the case and covenant, is now justly exploded; but that such an objection should ever have been made by great lawyers, shows in a peculiarly forcible manner, how perversely wrong it is to treat an agreement to make a lease as a subject-matter belonging exclusively to courts of equity.

Courts of equity themselves hold no such doctrine as this. They hold doctrines strikingly inconsistent with it. Before Lord Somers's time they would not even entertain a suit for specific performance of an agreement, until the plaintiff had first recovered damages at law for the breach of it. According to Mr. Justice Kelly, courts of law are incompetent to perform the investigation which is necessary to determine whether a party asking for specific performance of an agreement, has a clear equity. According to the Chancellors who preceded Lord Somers, not only are the courts of law competent to this investigation, but they are the only courts which are competent to it. They held this investigation in a court of law to be the indispensable preliminary to their equitable interference.

This doctrine, it is true, has received two considerable modifications in modern times. But taken with these modifications, the doctrine, though a less striking, remains in substance an equally strong argument against Mr. Justice Kelly's views.

The first modification was, that, after Lord Somers's accession to the woolsack, the Chancellors, instead of insisting that the plaintiff should actually recover damages at law before he could claim equitable relief, thought it sufficient to determine themselves whether the plaintiff would be entitled to damages at law.—See the observation of Sir Thomas Clarke, M. R., in the case of *Dodsley v. Kinnersley*, Amb. 406.

The second modification is thus described in argument by the counsel in the case of *Williams v. Steward*, 3 Merivale, 481: "There are cases, undoubtedly, where the court will maintain the bill, notwithstanding some formal objection which would preclude the party at law, as the lapse of time, &c. But the true distinction is, that the subject-matter must be such as would enable the party to recover in damages, but where the subject-matter is otherwise, a court of equity cannot interfere."

We will not undertake to say whether this distinction reconciles all the cases. The subject is discussed by Mr. Fonblanque in a note to the *Treatise of Equity*, Vol. I. p. 151, note (c), and treated by him as doubtful; but all that is necessary for the purpose of our argument seems well established, viz. that where there is a legal agreement, and no formal objection which would preclude the party at law, a court of equity will not decree specific performance unless it is satisfied that the party is, under the circumstances, entitled to damages at law.

That is, the courts of equity hold, that in such cases the question whether there is a clear equity, depends upon the question whether there is a clear title to damages at law.

Mr. Justice Kelly's objections to Lord Mansfield's doctrine, have therefore no validity whatever. The only valid objection to it is, that a court of law has not the power to decree specific performance, nor any equivalent power.

When we say the only valid objection, we mean the only valid objection drawn from considerations of utility and convenience, for with regard to mere technical considerations, it must be admitted that Lord Mansfield was guilty of innovation in this matter. If, however, the nature and history of the action of ejectment, and in particular the nature and history of the execution in it, is considered, it will appear that his doctrines harmonize much better therewith than the doctrines of his predecessors and successors. In the first place, the action of ejectment is



fictitious, and it is a general principle, that fictions are only permitted to be used for the purpose of obtaining justice, and not for the purpose of doing injustice. But secondly, the execution in ejectment, so far as the possession of the land is obtained by it, was borrowed by the common lawyers from the courts of equity.

There is some doubt as to the exact period of this change. The following is Sir William Blackstone's account of it: "When the courts of equity began to oblige the ejector to make a specific restitution of the land to the party immediately injured, the courts of law also adopted the same method of doing complete justice; and in the prosecution of a writ of ejectment, introduced a species of remedy not warranted by the original writ, nor prayed by the declaration (which are calculated for damages merely, and are silent as to any restitution); viz. a judgment to recover the term, and a writ of possession thereupon. This method seems to have been settled as early as the reign of Edward 4, though it hath been said to have first begun under Henry 7, because it probably was then first applied to its present principal use, that of trying the title to the land."—Comm. 3. 200.

Now it seems manifest, that if the common lawyers introduced this kind of execution into the law, for the purpose of sparing the party the trouble and expense of two suits instead of one, if they gave possession of the land because they knew that if they did not the courts of equity would; à fortiori ought they to have refused possession to the lessor of the plaintiff in those cases in which they knew that the courts of equity would take it away from him, and restore it to the defendant. When, therefore, Lord Mansfield remarked, "if the court were to say, this ejectment ought to prevail, it would merely be for the sake of giving the Court of Chancery an opportunity to undo all again;" he spoke not only in the spirit of reason and justice, but also in the spirit of those ancient lawyers who first turned the action of ejectment into a means of recovering possession of the land.

The next example we shall give of Lord Mansfield's attempts in this kind, is his using the action for money had and received as a bill in equity, for the purpose of relieving a party from the consequences of a judgment given in an inferior court, which, from defect of jurisdiction, had not been able to go into the whole case. He did this in the case of *Moses v. Macfarlan*, Burr. 1005. We had occasion to advert to this case in the part of this Report which treats of the mode of correcting the errors of inferior courts, and we shall have occasion to advert to it again in the Report which treats of special pleading; but the present is the proper place for bringing to view the main doctrine contained in the case, and the objections which have been made to it. In the course of this examination it will be seen, that the principle of giving to one court jurisdiction over only part of the facts of a case, compelling it to decide upon such imperfect grounds, and then correcting the mischievous effects of its decision by calling in the aid of another court which is empowered to go into the whole case, seemed pregnant with absurdity even to a great English lawyer, not of Lord Mansfield's school, when presented to his mind as a novelty. In this instance too, as in so many others, Lord Mansfield does not appear to have been fully understood.

Macfarlan sued Moses in the court of conscience, as indorser of a small bill of exchange, and recovered against him there, notwithstanding an agreement into which he had entered, that Moses should not be liable to pay the money by reason of his indorsement. The court of conscience refused to receive any evidence in proof of this agreement of indemnity, thinking that they had no power to judge of it, and gave judgment against Moses upon the mere foot of his indorsement (which he himself did not at all dispute), without hearing his witnesses about the agreement that he should not be liable; for the Commissioners held this agreement to be no sufficient bar to the suit in their court.

Lord Mansfield, in giving judgment, said,—“It is most clear that the merits of a judgment can never be overhauled by an original suit either at law or in equity. Till the judgment is set aside or reversed, it is conclusive as to the subject-matter of it to all intents and purposes.

“But the ground of this action is consistent with the judgment of the court of conscience; it admits the Commissioners did right. They decreed upon the indorsement of the notes by the plaintiff, which indorsement is not now disputed. The ground upon which this action proceeds was no defence against that sentence.”

At the word "consistent," in the above passage, the Reporter says in a note, "Qu. of this? for how can it be legal for any court of law to give judgment for a plaintiff to recover a sum which, as soon as paid, the defendant hath a legal right to recover back again, and that on the very same facts as in the former suit."

Upon this query we observe first, that Lord Mansfield would not have said that the defendant had a legal right, but an equitable right, which in this equitable action might be enforced in a court of law. The defendant had a legal right (Lord Mansfield would probably have said) to recover damages for the breach of the agreement, and an equitable right to recover back the money which, in breach of the agreement, he had been forced to pay; and secondly, that the defendant did not recover it back again on the very same facts as in the former suit. For the fact of the agreement was not before the Commissioners, they having refused to receive evidence of it.

"It is enough for us," Lord Mansfield continues, "that the Commissioners adjudged they had no cognizance of such collateral matter. We cannot correct an error in their proceedings, and ought to suppose what is done by a final jurisdiction to be right." But we think the Commissioners did right in refusing to go into such collateral matter, otherwise by way of defence against a promissory note for 30*s.* they might go into agreements and transactions of a great value; and if they decreed payment of the note, their judgment might indirectly conclude the balance of a large account."

To this again the Reporter appends a note, containing the following passage: "The above reasoning seems to be contradictory to itself, and is really a contradiction in terms; for it is saying a man has a right, which the moment he has received, the person paying it has a right to recover back, which is a right and no right." The contradiction will vanish, if we say that one party has a legal right and the other an equitable right. The absurdity will remain, it is true, of having legal rights inconsistent with equitable rights, but this Lord Mansfield could not help; and we (much as we object to such arrangements) are nevertheless of opinion, that if there are to be rights inconsistent with equity, and jurisdictions which are to enforce them, equitable rights and jurisdictions to enforce them are a necessary complement of that system.

The opinions of the Reporter are understood to have been shared by a considerable portion of the profession; but the most weighty expression of disapprobation is to be found in the judgment delivered by Lord Chief Justice Eyre, in the case of *Philips v. Hunter*, 2 H. Bl. 414. The arguments used by him are very forcible. They are indeed conclusive, not, as it seems to us, against the equitable relief given by Lord Mansfield under the circumstances of the case, but against any such parcelling out of jurisdiction as renders equitable relief necessary for the purposes of justice, or, in other words, against setting up a court which is prohibited from doing complete justice in the cases which come before it.

"In the argument of the case it is distinctly admitted, that the merits of a judgment can never be overhauled by an original suit either at law or in equity; that till the judgment is set aside or reversed, it is conclusive as to the subject-matter of it, to all intents and purposes. An attempt is made to distinguish between the judgment and the ground of that action, I think not with much success. The proposition that the ground upon which the action proceeded was no defence against the sentence, can hardly be maintained. Suppose it had been a suit in the Court of King's Bench, instead of a court of conscience, would it have been a defence? If it would, why not in a court of conscience? Is there to be a recovery in a court of conscience only to be overturned by an action in the King's Bench? It is said they might go into agreements and transactions of great value; doubtless they might, if those transactions give a defence against a debt of which they have jurisdiction. Is it not necessarily incident? The true objection, if there be an objection, is that such courts ought to have no jurisdiction at all, because the jurisdiction, if they have it, will draw to it cognizance of matters of which they must be very incompetent judges. It may be questionable whether a set-off of a debt arising out of their jurisdiction can be pleaded or used; but that does not draw into question the truth of the proposition, that every thing that goes to the essence of the debt demanded, must of necessity be within their jurisdiction. To say that the merits of a case determined by the Commissioners, where they had jurisdiction, never could be brought in question

over again in any shape whatever, and to say that yet the defendant ought not in justice to keep the money, is not intelligible to me."

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"I think the agreement was a good defence in the court of conscience, but if it were otherwise, the recovery there was a breach of the agreement, upon which an action lay; and this was in my judgment the only remedy. Shall the same judgment create a duty for the recoveror upon which he may have debt, and a duty against him upon which an action for money had and received will lie? This goes beyond my comprehension. I believe that judgment did not satisfy Westminster Hall at the time; I never could subscribe to it; it seemed to me to unsettle foundations."

These arguments appear to us very strong to show that a court, which is obliged to decide on part of a case only, and whose decisions must therefore give rise to original suits in other courts, or else work irremediable injustice, ought not to be tolerated; but they do not seem to us to prove, that, when such courts are tolerated, there is any absurdity or inconsistency in having other courts of original jurisdiction to counteract the mischievous effects of their decisions.

An appellate court only interferes where the court before which the matter was first brought, has fallen into error. A court of equity interferes upon a quite different, and in some respects opposite ground. It interferes, because the court before which the matter was first brought, has decided rightly, and in so doing has produced a defect of justice. If the court before which the matter was first brought has not decided rightly, a court of equity would tell a party applying to it, that it had no jurisdiction, that his remedy was by application to the court appointed by the constitution to correct the errors of the one in which he had been litigating. If, indeed, that was one to which the constitution has entrusted final jurisdiction, or whose jurisdiction had in this instance become final, by the efflux of the time limited for appellate proceedings, then the court of equity would be bound to presume that the decision was right, and would be justified in affording its own peculiar relief if the case required it.

These seem to be the principles on which Lord Mansfield proceeded, and that he was right, and Chief Justice Eyre wrong (assuming always that an action for money had and received is, *quoad hoc*, a bill in equity), we think we can prove by the authority of Lord Eldon

Looking at the question abstractedly, Lord Mansfield thought that the agreement was no defence in the court of conscience, as being beyond its jurisdiction. Chief Justice Eyre thought, that being a defence against the claim made in the court of conscience, the agreement was, for that reason, drawn within its jurisdiction.

Upon this we shall only remark in passing, that, whichever of these high authorities may be right, their difference furnishes us with an argument in the shape of a dilemma against courts of conscience upon the English plan. If Lord Mansfield is right, then such courts must frequently do injustice in the matters which come before them, from defect of jurisdiction. If Chief Justice Eyre is right, then such courts must frequently do injustice, because they are incompetent in point of knowledge to decide the questions thus incidentally, and against the intention of the legislature, drawn within their jurisdiction; and so *quâcunque viâ datâ*, courts of conscience ought to be superseded by the sort of courts recommended in the first part of this Report, to which neither of these objections is applicable.

We return to the subject under discussion.—Lord Mansfield thought, looking at the question abstractedly, that the agreement was no defence in the court of conscience; whether he was right or wrong is immaterial to the present purpose, for he also thought, that as the court of conscience had itself decided that the agreement was no defence because beyond its jurisdiction, and as the court of conscience is a court from which no appeal lies, he was bound to assume the same doctrine for the purposes of this case, whatever might be his opinion of the correctness of that doctrine in the abstract.

In this we can prove by the authority of Lord Eldon, that Lord Mansfield was right. The case of *Farquharson v. Pitcher*, 2 Russell, 81, bears a striking resemblance to that of *Moses v. Macfarlan* in its circumstances, in the arguments adduced and in the decision; and shows, we think, that Lord Eldon, if he could have been brought to admit that an action for money had and received is, for this purpose

purpose a bill in equity, or, which comes to the same thing, if a bill in equity had been filed against Macfarlan, instead of an action for money had and received, would have done exactly what Lord Mansfield did.

It must be remembered, that Chief Justice Eyre's objection is, that the case of *Moses v. Macfarlan* violates the principle "that the merits of a judgment can never be overhauled by an original suit either at law or in equity."

The facts of the case of *Farquharson v. Pitcher* were shortly as follows :—The plaintiff Farquharson, being resident in Martinique, had demands on Æneas Barkly in London. To enforce payment, his friend W. H. Pitcher suggested that his brother Augustus Pitcher, a solicitor in London, should be employed, and in order that Augustus Pitcher might exert himself with more zeal, it was arranged that the business should be represented to him as to be done on the account of W. H. Pitcher. Accordingly, Farquharson executed a deed by which, for a fictitious consideration, he assigned absolutely to W. H. Pitcher his pecuniary demand on Barkly, and he at the same time executed a power of attorney in his favour. The actual agreement, however, between the parties was, that W. H. Pitcher should be merely a trustee for the plaintiff; and in order to show the true intent of the transaction, W. H. Pitcher signed a memorandum, in which he declared that he had no interest in the property assigned, and that the assignment had been executed only to facilitate the recovery of the demand.

Afterwards Farquharson came to London, and finding that no steps had been taken against Barkly, he informed Augustus Pitcher that he was the party actually interested, and requested him to proceed on his, Farquharson's account. A suit was instituted, and Barkly, by way of compromise, paid the sum of a thousand guineas. Augustus Pitcher received the money on Farquharson's behalf, and made some payments out of it to him or on his account.

Augustus Pitcher having acted as Farquharson's solicitor in various other matters and accounts subsisting between them, brought an action against him. Farquharson obtained from the Court of King's Bench a rule calling on Augustus Pitcher to show cause why his bill of costs should not be taxed, why he should not give credit for all sums of money received by him for or on account of Farquharson, and refund what upon such taxation might appear due from him, &c.

By a subsequent order of the Court of King's Bench, the action and the matters of the former rule were referred to the determination of the Master.

In the proceedings before the Master of the King's Bench, Farquharson contended that he ought to have credit for the whole of the 1,050*l.* which Augustus Pitcher received from Barkly, and he produced the memorandum to show that the assignment was merely a conveyance in trust for himself. But the Master decided that the memorandum, not being under seal, did not legally affect or countervail the deed of assignment which was under seal; that therefore he could not take into his consideration its nature, terms or effect; that he could look only at the legal effect of the deed, under which the sum of 1,050*l.* appeared to have become in law the money of W. H. Pitcher, for a valuable consideration; and consequently, that Augustus Pitcher could not be called upon to give credit for that sum to Farquharson, and should be charged with no more in respect of such sum of 1,050*l.* than the moiety thereof, with which he had charged himself in certain accounts delivered and insisted upon by him, and which the Master treated as settled accounts. The Master made his allocatur upon that principle, and by it he directed Farquharson to pay 233*l.* to Augustus Pitcher.

Although Farquharson had been arrested, no bail bond had been given to the sheriffs, and Pitcher obtained a rule to show cause why an attachment should not issue against the sheriffs of Middlesex, for the sum mentioned in the Master's allocatur.

Farquharson then applied to the Court of King's Bench to review the taxation and allocatur, on the ground that Augustus Pitcher had been charged with no more than a moiety of the 1,050*l.*, and that the deed of assignment had been treated as a valid deed for bona fide consideration; but the court coincided with the Master's view of the case, and refused to enter into the merits of the memorandum and declaration of trust.

The bill stated these transactions, and the prayer was, that the plaintiff might be declared entitled in equity to have credit for, and to receive the moiety of the 1,050*l.* not already allowed him in account; that a general and equitable account of receipts and payments, and taxation of untaxed bills of costs might be taken and had between the plaintiff and Augustus Pitcher, and directions given for the

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the payment of the balance; that Pitcher might be restrained from prosecuting either the action then pending, or any proceeding by way of attachment or process of contempt against the plaintiff or the sheriffs, for compelling payment of the sum claimed by him under the allocatur; and that the sheriffs might be restrained from paying the money to Pitcher.

The defendant, Augustus Pitcher, filed a general demurrer.

The counsel for the demurrer argues thus: "The Bill is filed in respect of matters which not only are the proper subject of legal cognizance; but have actually been determined by a competent common law authority. The first order of the King's Bench called on the defendant to show cause why he should not give credit for all sums of money received by him for or on account of the plaintiff, and refund what might appear to be due from him; and by the second order, all the matters of the former order are referred to the determination of the Master. That officer has taken the account, and made his determination; his decision was questioned before the court, and the court was of opinion that he had come to a right conclusion. The Court of King's Bench, therefore, has given the plaintiff credit for all the sums which the defendant received on his account.

"The ground on which the bill proceeds, is, that the defendant has not been charged with the sum of 1,050*l.* received by him in respect of the claim which had been assigned to his brother, but which is alleged to have always belonged to the plaintiff. If the fact be so, the Court of King's Bench and the Master have erred; but that a court of law has erred in a matter submitted to its jurisdiction, and with which it was competent to deal, gives no title to equitable relief."

This we see is precisely the argument of Chief Justice Eyre, with regard to the case of *Moses v. Macfarlan*. He contended that the court of conscience had erred in excluding the agreement from their consideration, and that such error could give no title to the equitable relief sought to be obtained by the action for money had and received in the King's Bench.

The counsel for the demurrer then went on to show, upon principle and upon authority, that the Court of King's Bench had erred in excluding the memorandum from their consideration.

Upon principle they contended that "The assignment could have no more operation in a court of law than the memorandum; a court of law could not pay greater regard to the one than to the other; the circumstance that the one was under seal, and that the other was not under seal, was altogether immaterial. There cannot be a legal assignment of a chose in action in contradistinction to an equitable assignment. There can be no assignment of a chose in action, whether under or not under seal, which will enable the assignee to sue for it in a court of law, in his own name, and without the intervention of the assignor. The effect of an assignment at law, as well as in equity, is to operate on the beneficial interest, not on the legal right. There was nothing, therefore, to preclude the plaintiff from having credit for the whole 1,050*l.*, if he had a just title to it."

They then cited several authorities, to show that a court of law will take notice of a trust of a chose in action, and will consider who are the persons beneficially interested, and they concluded with the proposition that "Equity will not interfere to try again what has been already tried, and to retard the execution of the judgment which has been pronounced."

The counsel in support of the bill said, *inter alia*, "it was decided (perhaps properly) that the consideration of Farquharson's right to the 1,050*l.* could not be gone into there (in the King's Bench). The same party who prevented a court of law from taking cognizance of the matter, now says, you ought to have enforced your claim at law, and are therefore to be shut out from a court of equity.

"It is vain to argue that there are authorities, according to which the Court of King's Bench might have gone into the question which is raised upon this record. It is sufficient that the bill alleges that the court of law did refuse to enter into the consideration of those matters which constitute the case entitling us to equitable relief. It must be assumed, upon the present state of the record, that the plaintiff has not had, has not been able to have, and is not entitled to have, any remedy at law."

This argument, to which it will be seen Lord Eldon assented, is the same as  
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Lord Mansfield's in the case of *Moses v. Macfarlan*. His judgment might, without any alteration of the sense, be expressed, *mutatis mutandis*, in the very words just quoted, or in the very words now to be quoted from Lord Eldon's judgment.

"The demurrer for want of equity must be overruled," he said; "I do not enter into the discussion of the validity of the several authorities which have been cited, to show that a court of law might have given effect to the equity on which the plaintiff relies. This bill states, that the Master of the King's Bench refused to try the equitable right. I therefore look upon the authority of this very case, as stated in the bill, as an answer for the purposes of this case, to the older authorities which have been cited."

The demurrer was, of course, overruled.

We have never heard that this case has been thought to unsettle foundations, and yet, if the case of *Moses v. Macfarlan* is to be considered as overhaling the decision of the court of conscience, this case must also be considered as overhaling the decision of the Court of King's Bench. The truth seems to be, that neither case is open to that imputation, that both are examples of equitable jurisdiction, relieving against the decision of another court upon grounds which were excluded, and must be taken to have been properly excluded from the consideration of that court.

The lesson of jurisprudence to be drawn from this discussion is, that if Lord Mansfield erred in the case of *Moses v. Macfarlan*, he erred only in holding that an action for money had and received was, for the purposes of that case, a bill in equity. That once assumed, the rest of his doctrine follows as a matter of course.

The legislative lesson is, that courts like the Court of King's Bench, ought to be furnished with the means of doing justice in all cases within their jurisdiction, and that courts of conscience, inasmuch as they cannot be furnished with such means without great risk of injustice, ought not to be suffered to exist at all. Both these exigencies are provided for in our scheme.

The case of *Bauerman v. Radenius* (7 T. R. 663), will supply our next topic. It does not seem clear, from the report of the case, on which side the equity and good conscience lay; but assuming, for the sake of argument, that they were with the plaintiff, against whom the court decided upon strictly legal principles, then the sort of obstruction to justice which occurred, would be remedied by the simple provision, which seems to us clearly desirable upon more general grounds, of allowing the parties to the cause to be examined *vivâ voce*, in the same way as other witnesses. This cannot be done in the English system, either by a court of law or a court of equity. The only way of accomplishing it is the fantastic one of getting a court of equity to order a court of law to do it. And that such a course as this should seem a wise one to such a man as Lord Kenyon, is one of the most remarkable illustrations of the degree to which a servile and uncritical study of the English system, perverts the understandings of those who engage in it. We look upon Lord Kenyon as the most vigorous intellect among the antagonists of Lord Mansfield. He is also the most candid among those antagonists. He does not, like Lord Redesdale, accuse Lord Mansfield of having Scotch prejudices on his mind; but openly avows his own English prejudices as the sources of his reverence for the separate administration of law and equity.

The case of *Bauerman v. Radenius* was an action for delivering goods wet and ill-conditioned.

The principal question at the trial arose on the production by the defendant of a letter from the plaintiffs, who were the shippers of the goods, to Van Dyck & Co., entirely exculpating the defendant from all blame or imputation of negligence or misconduct, and stating that he acted in every respect according to the plaintiff's orders, by stowing the goods under their direction. But it also appeared in the same letter, that Van Dyck & Co. were the persons on whose risk the goods were shipped, that they were the persons really interested in the suit, and had indemnified the plaintiffs, their agents, in whose name they had brought this action. Whereupon it was contended at the trial, in support of the action, that, as it was disclosed that Van Dyck & Co. were the real plaintiffs, and the nominal plaintiffs only their agents, the former ought not to be concluded by the admissions of their agents, proved, too, by a letter without the sanction of an oath, and that therefore this evidence ought to be rejected; but



Lord Kenyon being of a different opinion, the plaintiffs were nonsuited. A motion was afterwards made to set aside the nonsuit, and Lord Kenyon, in the course of his judgment, thus expressed himself:

"I have been in this profession more than 40 years, and have practised both in courts of law and equity; and if it had fallen to my lot to form a system of jurisprudence, whether or not I should have thought it advisable to establish two different courts with different jurisdictions, and governed by different rules, it is not necessary to say. But influenced as I am by certain prejudices that have become inveterate with those who comply with the systems they found established, I find that in these courts proceeding by different rules, a certain combined system of jurisprudence has been framed most beneficial to the people of this country, and which I hope I may be indulged in supposing has never yet been equalled in any other country on earth. Our courts of law only consider legal rights: our courts of equity have other rules, by which they sometimes supersede those legal rules, and in so doing they act most beneficially for the subject. We all know that if the courts of law were to take into their consideration all the jurisdiction belonging to courts of equity, many bad consequences would ensue."

Lord Kenyon then illustrates his opinion by the case of an action for a legacy. We omit the illustration here, because we shall soon have another occasion to quote it. Afterwards he proceeds as follows:—"I exemplify the propriety of keeping the jurisdictions and rules distinct, by one out of a multitude of cases that might be adduced. If the parties in this case had gone into equity, and that court had directed an issue to be tried, they might have modified it in any way they thought proper. One of the rules of a court of equity is, that they cannot decree against the oath of the party himself on the evidence of one witness alone, without other circumstances: but when the point is doubtful, they send it to be tried at law, directing that the answer of the party shall be read on the trial; so they may order that a party shall not set up a legal term on the trial, or that the plaintiff himself should be examined; and when the issue comes from a court of equity, with any of these directions, the courts of law comply with the terms on which it is so directed to be tried. By these means the ends of justice are attained, without making any of the stubborn rules of law stoop to what is supposed to be the substantial justice of each particular case; and it is wiser so to act than to leave it to the judges of the law to relax from those certain and established rules by which they are sworn to decide. If the question that has been made in this case had arisen before Sir M. Hale, or Lords Holt or Hardwicke, I believe it never would have occurred to them, sitting in a court of law, that they could have gone out of the record, and considered third persons as parties in the cause."

After some remarks on the circumstances of the case, Lord Kenyon concludes his judgment in the following words:—"It is my wish and my comfort to stand *super vias antiquas*: I cannot legislate, but by my industry I can discover what my predecessors have done, and I will servilely tread in their footsteps. I am therefore clearly of opinion on principles of law, that the plaintiffs cannot recover in this action, and we cannot in this case assume the jurisdiction of a court of equity, in order to overrule the rigid rules of law."

There is something bordering on the ludicrous in this statement by Lord Kenyon, of the origin of his opinion and of the length of time he had held it, as if 40 years uninterrupted enjoyment of a prejudice could turn it, by a kind of intellectual prescription, into a sound doctrine. It has, however, the merit of great candour, and seems almost to amount to an avowal that, if instead of a judicial decision on what the law was, he had been called upon as a legislator for a recommendation as to what it ought to be, he would have felt it his duty to shake off an opinion which he cherished principally on account of its inveteracy. We do not mean to say that all Lord Kenyon's expressions imply an attention to this distinction; on the contrary, in the course of his judgment his mind appears to vacillate. Sometimes he seems to be simply declaring the law, avoiding any estimate of its merit or demerit, sometimes to be expressing strong approbation of the law, sometimes to be admitting that nothing can be said in favour of it by an unprejudiced person.

This apparent vacillation imposes considerable difficulty upon those who undertake to criticise him.

That a judge should not legislate, but should discover what his predecessors have done, and tread servilely in their footsteps, is a doctrine which we have no disposition

disposition to combat, at least so long as there is a legislature ready to amend the defects of the law. But when Lord Kenyon says "by these means (the trying actions or issues under the directions of a court of equity) the ends of justice are attained without making any of the stubborn rules of law stoop to what is supposed to be the substantial justice of each particular case, and it is wiser so to act than to leave it to the judges of the law to relax from those certain and established rules by which they are sworn to decide," it is not very easy to understand whether he speaks with reference to the wisdom of a judge, or to the wisdom of a legislator.

If he means only that the judges ought to decide as they are sworn to do, and that they are sworn to decide according to certain established rules of evidence, these are propositions which we are not called upon to dispute. We may remark, however, that the latter is scarcely a true proposition. It is scarcely true, seeing that the rules of evidence have almost all been made by the judges, and from time to time altered by them, to say that they are sworn to decide by those rules as they exist at any given time.

But by the expression "it is wiser so to act than to leave it to the judges of the law to relax from those certain and established rules by which they are sworn to decide," Lord Kenyon seems to mean, that it is wiser in the legislature so to act. Yet if we so understand him, the whole sentence will yield no consistent meaning; for admitting that the judges of the law are sworn to decide on such subjects according to established rules, still they are only sworn to decide according to such rules as are from time to time established by the legislature.

Upon the whole it may be said, that Lord Kenyon's judgment contains no argument which can help to decide the legislative question arising out of this case.

That legislative question does not exactly correspond with the judicial question presented for the decision of the court.

For it ought to be observed, that this case of *Bauerman v. Radenius* differs from the generality of the cases in which courts of law have been asked to relax the rigour of their rules. The real plaintiff against whom those rules operated, did not ask the court to do what good conscience required, or what a court of equity would have directed. He did not ask the court to examine the nominal plaintiff as a witness, but to exclude altogether the admission made by the nominal plaintiff in favour of the defendant, which would clearly be going beyond what good conscience requires; but which is a proceeding much more analogous to the practice of courts of English law. We admit therefore, not only that Lord Kenyon decided according to law, but also that for any thing that appears to the contrary, he adopted the most equitable of the only two courses presented to him.

But in delivering his judgment, so far as he considers the matter in a legislative point of view, he discusses it without reference to this circumstance. He discusses the matter as if the case had stood thus:—

A man has a good cause of action in the name of a third person in a court of law, according to the English system. The general rule is, that the plaintiff in an action at law cannot be examined. But there are acknowledged exceptions to the rule. The party aggrieved in the supposed case alleges that it is within the exception, and the question for a legislator is, shall such a party be allowed to prove to the court within whose cognizance the subject-matter lies, that the case is within the exception, and that the nominal plaintiff ought accordingly to be admitted to give evidence; or shall he be compelled to bring a distinct suit in a distinct court for the purpose of adducing this proof, and getting an order to have the nominal plaintiff admitted as a witness in the court which is to try the cause.

Lord Kenyon's judgment, as we have already remarked, contains no argument in favour of the side of this question to which he appears to lean, and argument appears to us to be superfluous on the other side.

Our opinion and our recommendation go a great deal farther, for we hold that every court should have the power to examine the real plaintiff and defendant, and of course *à fortiori* every court should have the power to examine a person who is placed in that situation, not on account of his interest in the subject-matter, but on account of some real or supposed convenience of form.



In treating the last topic we purposely omitted Lord Kenyon's illustration drawn from the effects of suing at law for a legacy, in order that we might introduce it in the separate discussion of that subject on which we are now about to enter. This was Lord Kenyon's favourite instance of the danger of confounding legal and equitable jurisdiction. He refers to it as the most palpable illustration of that doctrine. He refused in the case of *Deeks v. Strutt* (5 T. R. 690) to exercise that jurisdiction in a court of law, stopping the counsel who was to have argued against the jurisdiction, and overruling Lord Mansfield's doctrine on the subject, and he congratulates himself on having made an impression upon Mr. Justice Buller by his arguments. Yet, when the doctrine which he maintained on the subject is considered attentively, it will be found, singularly enough, to be quite unanalogous to the system which Lord Kenyon so much admired. It has moreover been since overruled by his successor Lord Ellenborough, in the case of *Doe dem. Lord Saye and Sele v. Guy* (3 East's R. 120), for although one of the judges in that case endeavours so far to explain away Lord Kenyon's doctrine as to make it not inconsistent with Lord Ellenborough's decision, the attempt is eminently unsuccessful. We now proceed to prove all this.

In the case of *Bauerman v. Radenius*, Lord Kenyon says, "To mention only the single instance of legacies being left to women who may have married inadvertently, if a court of law could entertain an action for a legacy, the husband would recover it, and the wife might be left destitute; but if it be necessary in such a case to go into equity, that court will not suffer the husband alone to reap the fruits of the legacy given to the wife; for one of its rules is, that he who asks equity must do equity, and in such a case they will compel the husband to make a provision for the wife before they will suffer him to get the money."—7 T. R. 667.

In another case, *The Mayor of Southampton v. Graves*, he again illustrates the danger of confounding law and equity, by the same instance of an action for a legacy. "A similar mistake was, I think, made (he says), in this court, a few years before I sat here, on another question, where it was decided that an action at law might be maintained for a legacy, partly on the ground that the plaintiff would have recovered it as of course in a court of equity. On its being mentioned to me by the late Mr. Justice Buller, I took the liberty of asking him whether or not he was sure that the court had taken a view of the whole question before they had decided it, reminding him that it is a constant rule in courts of equity, when the husband files a bill for a legacy given to the wife, that (if I may use the expression) they stop it in transitu, if there be no provision for the wife; whereas, if a legacy could be recovered in an action at law, there would be no provision for the wife and family, as the husband would at once take the legacy; that learned judge, whose legal knowledge was universally allowed, immediately admitted the force of the observation. There was indeed a case in Cromwell's time, in which an action at law for a legacy was maintained, but the reason given for that decision was, that there would be a failure of justice if courts of law did not take cognizance of the question, the spiritual courts not being then open; but as soon as those courts resumed their functions, suits of the kind returned into their proper channel; and since I have sat in this place it has been determined that a legacy cannot be recovered in a court of law."—8 T. R. 593.

The case to which Lord Kenyon alludes in the last sentence is, that of *Deeks v. Strutt*, 5 T. R. 690. His judgment in that case is as follows: "The supporting of the present action would be attended with the most pernicious consequences; and I believe that no action till lately (except one in the time of the Commonwealth) for a legacy has been supported in a court of law. The arguments which have of late years been advanced in support of this action, are founded on the supposed justice of the case and the convenience of the parties; but when it is considered in what manner a court of equity interposes in suits for legacies, in taking care that provision is made for the different parties entitled, and what inconvenience, and even ruin, to private families would have ensued from determining that an action can be brought in a court of law for a legacy, I think, that those who have wished to support the action in a common-law court, would hesitate before they came to the conclusion that the action can be maintained. If an action will lie for a legacy, no terms can be imposed on the party who is entitled to recover; and therefore, when the legacy is given to a wife,

wife, the husband would recover at law, and no provision could be made for the wife or family ; whereas a court of equity will take care to make some provision for the wife in such a case. But the whole of this admirable system, which has been founded in a court of equity, will fall to the ground if a court of law can enforce the payment of a legacy. I mention these as decisive reasons in my mind against the jurisdiction of the courts of law over this subject ; and I know they have influenced those who once entertained an idea that this action could be supported. The only case that I know of where it was said that this action might be maintained, happened in the time of the Commonwealth, but the reason then given was to prevent a failure of justice, the Ecclesiastical Courts being at that time abolished, and the Court of Chancery not having then, nor indeed until the time of Lord C. Nottingham, entertained any jurisdiction over the question of legacies. Therefore, as the arguments of convenience and justice, on which alone it has been thought that this action is maintainable at law, bear strongly against it, and as I find only one case in which it has been supported, and which was decided contrary to all precedent, merely because then the party had no other remedy, I am clearly of opinion that the present action cannot be maintained."

Now this denial of jurisdiction over legacies to courts of law, whatever may be its merit with reference to convenience and utility, is certainly not recommended by any conformity to the English system in general. The mode in which the mischiefs produced by the defective constitution of common-law courts is remedied in the English system, is not by taking away from them jurisdiction which they may exercise mischievously, but by preventing the suitor from applying to them, or from taking advantage of their decisions, that is to say, by injunction from a court of equity.

In all the other cases we have examined, the complaint against the courts of law has been that they have undertaken to do complete justice, or to abstain from doing injustice, thus usurping the functions of equity ; but here the complaint is, that they do incomplete justice or positive injustice, that they do something which requires to be set right in equity, which is just what in other cases they are applauded for doing by the admirers of the English system. If, indeed, they had not only exercised jurisdiction in cases of legacies, but had also undertaken to make a husband provide for his wife out of the legacy due to her for which he sues, or had undertaken (as Lord Mansfield seems to have intended) to make the legatee give security to refund upon a deficiency of assets, a case of usurpation on the courts of equity would be made out. But as long as they confine themselves to adjudging the legacy to the legatee, leaving it to the Court of Chancery to interfere by injunction in the case of a husband suing for his wife's legacy, and to make the legatee refund in case the assets are insufficient to pay creditors, they seem only to be acting the part usually assigned to them in that combined system of jurisprudence which, as Lord Kenyon thought, has never yet been equalled in any other country on earth.

Lord Kenyon therefore, in finding fault with the exercise by courts of law of this jurisdiction, appears to be arguing against his own general doctrines, and in favour of ours.

Lord Kenyon is here a witness against himself, and in favour of us. A tribunal with the limited powers of a court of law, cannot do complete justice in the case of a legacy ; therefore, according to Lord Kenyon, it has no jurisdiction, or ought to have no jurisdiction over legacies. To this doctrine we entirely assent, only we do not stop there. We push this doctrine to the whole extent of its logical consequences, and hold that, as in all suits within its jurisdiction, a court of law may, from want of adequate powers, find itself compelled to do incomplete justice, or positive injustice, the whole jurisdiction of such courts ought to be taken away, or, in other words, that there ought to be no such courts. And if Lord Kenyon had, in the case of *Bauerman v. Radenius*, applied to the matter then in judgment the principles derived from his illustration, he would have found himself driven to the same conclusion. If, instead of contending that a party in a suit at law fearing to be defeated by an admission made by the nominal plaintiff, ought to go into equity to get that impediment removed, he had contended that courts of law ought not to exercise jurisdiction over any subject in which they might find themselves compelled to do injustice, but ought to leave all such subjects wholly to courts of equity ; he would have in effect argued,

just as we argue, that there ought to be no courts of law which are not also courts of equity.

The doctrine therefore of his illustration in the case of *Bauerman v. Radenius*, of his illustration in the case of *The Mayor of Southampton v. Graves*, and of his main argument in the case of *Deeks v. Strutt*, though it appears to us to be excellent doctrine for the guidance of a legislator, sounds strangely in the mouth of an English lawyer, professing his devotion to English principles; and accordingly, the whole doctrine considered as a doctrine of English law, has been swept away by the subsequent case of *Doe dem. Lord Saye and Sele v. Guy*, 3 East's Reports, 120.

This last case is, indeed distinguishable from that of *Deeks v. Strutt*, because it was an action to recover a specific chattel against an executor, who had assented to the bequest; whereas in the former case the annuity which was the subject of the action, was payable out of the general funds of the testator. The former case therefore is not overruled by the latter, but the principle on which Lord Kenyon decided the former case, is completely overruled.

The counsel who argued for setting aside the verdict, and entering a nonsuit, "relied on the ground of the decision in *Deeks v. Strutt*, which applied as well to the case of a specific legacy as of a legacy payable out of the general fund; namely, that no action at law lay to recover it against the executor, because a court of law could not in many instances do that justice to the parties concerned as a court of equity were accustomed to do; for the latter would in the case of a legacy to a married woman oblige the husband to make a suitable provision for her, if she were not before sufficiently secured; whereas this court could not impose terms on one who was entitled to recover upon his legal title. The opinion of the judges in that case was delivered generally against supporting an action at law for a legacy, without the distinction now set up. The cases of *Atkins v. Hill*, and *Hawkes v. Saunders*, were indeed cases of express promises; but the reasoning there went the whole length of this case, if it had been well founded; but it was controverted, and considered to be overruled in *Deeks v. Strutt*."

This argument of the counsel for the defendant is absolutely conclusive and unanswerable, unless Lord Kenyon's doctrine is abandoned, and the courts of law would thus have been deprived of a jurisdiction which unquestionably belonged to them. The court, however, thought fit to preserve their jurisdiction, and to abandon Lord Kenyon's doctrine: they did it as tenderly as possible.

Lord Ellenborough says, "General language used by the court in giving their opinions in any case must always be understood with reference to the subject-matter then before them."

This undoubtedly is a sound principle of interpretation, but, unfortunately, Lord Kenyon's doctrine is not capable of being so restricted. Every word that he said against maintaining an action at law for legacies, though we should restrict it to actions for legacies payable out of the general fund, will remain equally applicable in its own nature to actions for specific legacies; and if he had in express terms so restricted his own expressions, he would have done neither more nor less than refute his own argument, by refusing to admit its logical consequences.

Lord Ellenborough, having thus quietly put on one side the doctrine on the excogitation of which Lord Kenyon had so prided himself, proceeds to show what, upon English principles, is the proper business of a court of law, and what of a court of equity, in regard to the subject-matter. "It never could be doubted," he says, "but that at law the interest in any specific thing bequeathed, vests in the legatee upon the assent of the executor. If it should afterwards appear that there is a deficiency of assets to pay creditors, the Court of Chancery will interfere, and make the legatee refund in the proportion required."

Le Blanc, J. said—"It is admitted that, upon the old authorities, there is no doubt of the plaintiffs' right to recover unless they have been overruled by the case of *Deeks v. Strutt*. But that never could have been in the contemplation of the judges there, because it formed a ground of objection with them to the action, that it was a novel attempt to contend that the law would raise an implied assumpsit against an executor, merely from the possession of assets. They thought that it would not; and in discussing that point, they showed the inconvenience which would result from extending the law in that respect further than it had been carried before."

This

This is a very correct account of what the court ought to have done in the case of *Deeks v. Strutt*; but far enough from a correct account of what they actually did. Mr. J. Grose, indeed, who sat in the court when both cases were decided, did take this line, and was perfectly consistent with himself in both decisions. His judgment in the latter case is as follows:—

“The only question in the case of *Deeks v. Strutt* was, whether the law would raise an implied assumpsit to pay the annuity, upon proof of the executor’s acknowledgment of assets. I thought it would not,” and it is quite true that this was the only question in the case, but the Chief Justice (and Mr. J. Ashurst supported him) chose to decide this question upon the broad ground, that a court of law is incapable of doing justice in an action for a legacy. “They did not point out,” as Le Blanc, J. says, “the inconvenience which would result from extending the law in that respect further than it had been carried before,” but vehemently contended against the supposed law being endured to any extent at all. “The whole of this admirable system which has been founded in a court of equity, will fall to the ground, if a court of law can enforce the payment of a legacy.” These, as has already been seen, are Lord Kenyon’s words, and Mr. J. Ashurst’s are not less strong. “Innumerable instances (he says) have occurred, in which the interposition of that court (a court of equity) has proved highly beneficial to private families, by compelling the husband to make an adequate settlement on the wife; but if we were now to determine that an action could be maintained for a legacy, wives and families, in many instances, would be left destitute of any provision.”

That Lord Kenyon himself would have repudiated Mr. Justice Le Blanc’s explanation and restriction of his doctrine, is placed beyond all doubt by the citation we have made from the case of *The Mayor of Southampton v. Graves*, where, after re-stating in all its breadth the doctrine he had laid down in the case of *Deeks v. Strutt*, he shows, with evident satisfaction, the unlimited conclusion to which that doctrine had led, “since I have sat in this place, it has been determined that a legacy cannot be recovered in a court of law.”

This objection to courts of law exercising jurisdiction over legacies, because (to use Lord Kenyon’s words) “ruin to private families would have ensued,” or because (to use Mr. J. Ashurst’s words), “wives and families, in many instances, would be left destitute of any provision,” is so thoroughly un-English, that even if it had not been overturned by the case of *Doe dem. Lord Saye and Sele v. Guy*, it would have been easy to show its heterogeneousness by comparing it with other parts of the English system. A spiritual court has no more power than a court of law to compel the husband to make a provision for his wife out of a legacy bequeathed to her, yet we never heard it contended that a spiritual court has no jurisdiction in cases of legacy. Ruin and destitution, indeed, might follow from the exercise of this jurisdiction, but they are to be prevented or remedied in the approved method, by a Chancery suit.

“The Court of Chancery will, on a bill filed, grant an injunction to the spiritual court, to stay the husband’s proceedings in that court to obtain a legacy given to his wife, because that court cannot compel the husband to make an adequate provision or settlement on his wife, as the Court of Chancery will oblige him to do, before it will permit him to receive the legacy.”—Maddock’s Chancery, vol. I., 129, and see the cases there cited.

With respect to our new court, its jurisdiction over legacies will of course be limited for the present (as its jurisdiction is on other subjects), to that now exercised by courts of law; but wherever it does exercise jurisdiction, it will exercise all the powers necessary for complete justice.

This examination of the objection which has been made to the jurisdiction of a court of law over legacies, affords perhaps the true explanation of Mr. Justice Buller’s recantation. His object and that of Lord Mansfield was to save parties the expense and delay of going into equity to obtain complete justice, wherever the powers of a court of law could be made to accomplish that purpose. He seems to have been satisfied by Lord Kenyon’s argument, that this could not be done in the case of a legacy, and therefore yielded upon that point. He yielded, not because he admired that combined system of jurisprudence which Lord Kenyon thought had never been equalled, but precisely because he did not admire it. The moment it was pointed out to him, he felt all the force of the objection, that a court of law, by undertaking to decide upon claims to legacies, would frequently do that which the parties would be driven into equity to remedy.

There is no evidence, as far as we know, that his recantation went beyond the cases in which this sort of inconvenience would have arisen. The only specific instance of his recantation is this instance of an action for a legacy. It is true that in the case of *Farquharson v. Pitcher*, which we have discussed above, Lord Eldon says, "With respect to the common law authorities which have been cited, I may observe, that when I had the honour to sit on the same bench with Mr. Justice Buller, I had a great deal of conversation with him in respect to the equitable doctrines of the Court of King's Bench; and though he at an earlier period of his life, had had some share in introducing equity into law, yet I have his own authority for stating, that he was convinced latterly, that he had been exceedingly mistaken in his notions of the equitable jurisdiction of the courts of law."—*Russell's Chancery Reports*, II. 86.

These are very large expressions, but in order to judge how far they accurately represent the change in Mr. Justice Buller's mind, it is fit to advert to what Lord Eldon says in the case of *Evans v. Bicknell*, when he is protesting against the equitable doctrines of the Court of King's Bench.

"With regard (he says) to the second proposition of Mr. Justice Buller, that if this (the rule regarding mortgages) had become a rule of property in equity, therefore it ought to be adopted in a court of law, with great deference to the learning and memory of that judge, that appears to me a very hasty proposition." He then proceeds to argue against the proposition, but makes not the slightest allusion to Mr. Justice Buller's recantation.

A little further on he says, "It seems to me rather surprising, if I may presume to say so, that Lord Mansfield, who concurred with Mr. Justice Buller in a great many of these equitable principles in a court of law, should not have attended to these distinctions, which perhaps will be found in the very principles on which this court exists."—6 Ves. 183. And again he goes on to illustrate what he has been saying, but still without any allusion to the recantation.

Now, Lord Eldon gave his judgment in the case of *Evans v. Bicknell* in the summer of 1801, very little more than a year after Mr. Justice Buller's death, and when the above-mentioned conversations in respect to the equitable doctrines of the Court of King's Bench, must have been quite fresh in his memory. For these conversations must all have taken place between the summer of 1799, when Lord Eldon was appointed Chief Justice of the Common Pleas, and the Easter vacation of 1800, when Mr. Justice Buller died. And these things being so, it is a moral impossibility, that, if Mr. Justice Buller's recantation of his equitable doctrines had been general, or had been large enough to be available for Lord Eldon's purpose, he should have omitted to take advantage of it. Surely, instead of saying "with great deference to the learning and memory of that judge," the proposition which he laid down, "appears to me a very hasty proposition;" Lord Eldon would have said (if he could have said so with truth) "It not only appears to me a very hasty proposition, but I have Mr. Justice Buller's own authority for stating, that he himself was latterly convinced it was so."

And again, instead of saying, "It seems to me rather surprising, if I may presume to say so, that Lord Mansfield, who concurred with Mr. Justice Buller in a great many of these equitable principles in a court of law, should not have attended to these distinctions;" Lord Eldon would have declared (if he could have done so with truth) that there could be no great presumption in expressing surprise that Lord Mansfield should have concurred with Mr. Justice Buller in neglecting the distinctions between courts of law and courts of equity, seeing that Mr. Justice Buller was latterly himself convinced that he had been exceedingly mistaken in adopting that course.

Lord Eldon gave his judgment in the case of *Farquharson v. Pitcher* in the year 1826, when more than a quarter of a century had elapsed from the date of his conversations with Mr. Justice Buller on law and equity; and we think it is sufficiently evident from what has been said, that he could not then have had an accurate recollection of the extent to which Mr. Justice Buller acknowledged he had been mistaken.

To what extent he did make that acknowledgment may, we think, be inferred from the specific instance of an action for a legacy, which instance was given by Lord Kenyon in the summer of 1800, immediately after Mr. Justice Buller's death, and without any intimation that Lord Kenyon had understood him to have abandoned generally the principles on which he and Lord Mansfield had so long acted.

If this be so, Mr. Justice Buller is an authority in our favour, not only when he endeavoured to extend the powers of courts of law, so as to enable them to do complete justice in the cases coming before them, but also when, yielding to Lord Kenyon's arguments, he repented of having endeavoured to extend their jurisdiction over cases in which, by the defect of their constitution, they cannot do complete justice. His recantation thus explained, is a most important authority in favour of the proposition, that no court should be suffered to meddle with subjects in which its meddling may produce mischiefs, which another court must be called in to remedy.

The last example we shall give of the attempts of Lord Mansfield and Mr. Justice Buller to introduce equity into suits at law, is their doctrine respecting the setting up of outstanding terms to defeat the lessor of the plaintiff in ejectment. Lord Eldon is here the great antagonist. The case which seems principally to have provoked his indignation is not one in which the court refused to allow an outstanding term to be set up; but one in which the court did allow the term to be set up, because the circumstances were such that a court of equity would have allowed it.

In the case of *Goodtitle v. Morgan* (1 Term Reports, 762), Mr. Justice Buller is reported to have expressed himself thus: "It is an established rule in a court of equity, that a second mortgagee, who has the title-deeds without notice of any prior incumbrance, shall be preferred; because, if a mortgagee lends money upon mortgage without taking the title-deeds, he enables the mortgagor to commit a fraud. If this has become a rule of property in a court of equity, it ought to be adopted in a court of law. Here the defendant took mortgages without inquiring after the title-deeds, the subsequent mortgagee is a purchaser without notice, and as he has taken the title-deeds, he has the better title."

It appears that, according to cases in equity decided after the case at law from which we have been quoting, the rule of equity is not now as stated by Mr. Justice Buller. "The doctrine at last is (so Lord Eldon says in the case of *Evans v. Bicknell*, 6 Ves. 174), that the mere circumstance of parting with the title-deeds, unless there is fraud, concealment, or some such purpose, or some concurrence in such purpose, or that gross negligence that amounts to evidence of a fraudulent intention, is not of itself a sufficient ground to postpone the first mortgagee."

Lord Eldon admits, however, that Mr. Justice Buller had sufficient grounds for supposing the rule to be as he stated it, and admits also, that if the cases of joint tenants, &c., in which, from the nature of the title, the deeds may be honestly out of the possession of the first mortgagee, are excepted, such a rule would avoid a great deal of fraud in mortgage titles.

But it is with Mr. J. Buller's second proposition that we are concerned, and it is against that Lord Eldon directs his attack.

"With regard to the second proposition of Mr. J. Buller, that if this had become a rule of property in equity, therefore it ought to be adopted in a court of law, with great deference to the learning and memory of that judge, that appears to me a very hasty proposition, and the converse undoubtedly will not hold; for it is impossible for this court, upon the principles upon which it acts, to say that whatever is a rule of proceeding at law is of course a rule of proceeding in equity. It may be asserted that it should be the case, but it is impossible it can. For instance: in the case of the mortgagee put in *Pasley v. Freeman*, if the man makes a false declaration, and an action can be maintained upon that, and the principle upon which it can be maintained is, that a court of equity will relieve, the converse ought to hold, that where an action can be maintained, equity should give relief. But is that so? A defendant in this court has the protection arising from his own conscience in a degree in which the law does not affect to give him protection. If he positively, plainly and precisely denies the assertion, and one witness only proves it as positively, clearly and precisely as it is denied, and there is no circumstance attaching credit to the assertion overbalancing the credit due to the denial as a positive denial, a court of equity will not act upon the testimony of that witness. Not so at law. There the defendant is not heard: one witness proves the case; and however strongly the defendant may be inclined to deny it upon oath, there must be a recovery against him.

"It seems to me rather surprising that Lord Mansfield, who concurred with Mr.



Mr. J. Buller in a great many of these equitable principles in a court of law, should not have attended to these distinctions, which perhaps will be found in the very principles upon which this court exists."

The objection here made by Lord Eldon to the attempts of courts of law to assume equitable jurisdiction is, we see, that the latter cannot possibly administer the same kind of justice as the former, because in a court of law the defendant has not the protection arising from his own conscience. As soon as it is enacted that a defendant shall have this benefit in a court of law, Lord Eldon's objection vanishes. But our proposed Act does better than this. The principles involved in Lord Eldon's objection have been themselves objected to, and with great reason; and our Act gives to the new court the power to examine the defendant, and to weigh his testimony, in a manner which obviates all objections.

We now resume our quotation from Lord Eldon, which we have interrupted for the sake of making this remark. He proceeds to apply what he has been saying to the case of a second mortgagee.

He first alludes to the doctrine of the Court of King's Bench as to satisfied terms; he shows the danger which he apprehended would result, and points out that courts of law could not guard against that danger in the same way that courts of equity can, for want of power to examine the defendant.

"Titles to property may possibly be found to be very considerably shaken by the doctrine of the Court of King's Bench as to satisfied terms. The law as to that here is, that a mortgagee having no notice of the first mortgage, if he can get in a satisfied term, would do that which is the true ground of the decision, though it is not put upon that by Mr. Justice Buller; he would, as in conscience he might, get the legal estate; and by virtue of that protect his estate against the first mortgagee, having got a prior title, the conscience being equal between the parties. When once it is said at law, that a satisfied term should not be set up in an ejectment, the whole security of that title is destroyed; and therefore, even with the modern correction which that doctrine has received in the late cases, which is, that you may set up the term though satisfied, and put it as a question to the jury whether an assignment is to be presumed, it seems to me very dangerous between purchasers; and the leaning of the court ought to be that it was not assigned; and I fully concur with Lord Kenyon, that it is not fit for a judge to tell a jury they are to presume a term assigned, because it is satisfied; but there ought to be some dealing upon it, or you take from a purchaser the effect of his diligence in having got in the legal estate, to the benefit of which he is entitled. Then suppose the law takes upon itself to decide the question between purchasers upon this subject, can it decide upon the same rules as courts of equity, as upon the question of notice? It will be said upon this doctrine, a court of equity does inquire into this, and it is a rule of property in equity; and therefore ought to be a rule of property at law. But how has it become a rule of property in equity? In equity the first mortgagee may ask the second whether he had notice. If that defendant positively denies notice, and one witness is only produced to the fact of notice, if the denial is as positive as the assertion, and there is nothing more in the case, a court of equity will not take the benefit of the term from the second mortgagee; placing as much reliance on the conscience of the defendant as on the testimony of a single witness, without some circumstance attaching a superior degree of credit to the latter. It is impossible, therefore, that the rule of property can be said to be the same as at law; and if it stands upon different principles, in fact it is perfectly different."

Be it so; but if you give to a court of law the power of examining the defendant, the whole impossibility vanishes. We entirely concur with Lord Eldon, that the want of power to examine the defendant is a great defect in the courts of common law, and prevents them from being fit instruments for doing complete justice in all cases. But we cannot go along with him in thinking, as he apparently did, that as much reliance ought to be placed upon the conscience of a party to the suit answering in writing written questions, with his attorney and counsel instructing him how far he may go towards deceiving the court without laying himself open to an indictment for perjury, as upon the oral testimony of a disinterested witness.

"This rule," says the learned reporter, Mr. Vesey, "considered simply as a general rule of evidence, seems open to observation, 1st, as preferring the evidence of a party; 2dly, upon the obvious defect of written compared with oral

oral testimony. It is difficult to determine the balance of inconvenience and danger on the one hand, from permitting in a commercial country the defendant to avail himself of his own oath to a degree in some respects beyond the old wager of law; and on the other, from deciding upon the evidence of a single witness in cases even requiring the utmost accuracy and precision in the proof."

It is no doubt difficult to determine this balance of inconvenience and danger; but it is a difficulty of which the solution ought to be a mere matter of curiosity, as there is not the least necessity for running into either extreme. Only let the legislature say to the judge, "Examine the parties *vivâ voce* and the one witness, when there happens to be only one; decide what weight is due to the oath, or rather to the testimony of the defendant, as well as to that of the single witness, not by any pre-established standard, but according to the sage advice of the Emperor Adrian, '*ex sententia animi tui*:'" only let the legislature say this, and the difficulty in question becomes of no more practical importance than those which exercised the ingenuity of the schoolmen.

We must now say a few words upon the nature of that protection to purchasers which Lord Eldon accuses the Court of King's Bench of destroying by its refusal to allow the lessor of the plaintiff in ejectment to be defeated by an outstanding satisfied term. Our own opinion on this subject coincides entirely with that expressed by the Commissioners for inquiring into the Law of Real Property, in their Second Report, pp. 10. et seq.

After showing, that the getting in an outstanding term causes expense, delay and difficulties, that the protection thus obtained is; for various reasons, precarious and inadequate; that although the term may protect the purchaser against secret incumbrances, it may yet not give him a marketable title; that the system of protection by terms is a source of danger to purchasers, and a cause of mischief which otherwise would not exist, the Commissioners conclude thus: "If the system of protection by the assignment of terms could be made available in every title, and were not productive of the other evils adverted to, it would still be open to the objection, that it is liable to work injustice; for whenever it comes into operation, its effect is simply to transfer the injurious consequences of fraud from one innocent party to another, and generally to postpone or exclude a person who had by priority in point of time the best equitable claim.

"By this artificial system, legal rights are made to depend on matters foreign to the merits of the case, suits are occasioned by it, in which the question is not between the rightful and the wrongful party, but between two having equal merits; the point to be determined being which party shall be the victim of the fraud of a third party, or of mere misfortune, and the result of which suit depends on a sort of chance. To obtain the accidental advantage of the '*Tabula in naufragio*' (as it is called) very objectionable proceedings may be resorted to, which the law is forced to countenance, as where a man by climbing into an open window, to which he had no lawful access, obtained a deed, the possession of which entitled him to the benefit of the legal estate.

"The system has a tendency in some cases to promote fraud; it may enable a party who has made a settlement or mortgage to defeat it with greater facility; it appears too, that in some instances it induces a system of selfish caution, with an indifference to the just claims of other persons, since some respectable practitioners have avowed, that when an outstanding term can be obtained, they advise their clients to omit the usual inquiries, by which the existence of intermediate incumbrances might be discovered, and to rely upon the legal estate to defeat them."

After this it will perhaps not be thought, that the destruction of the system of protection by outstanding terms would have been an evil so great as to outweigh the general beneficial effects of Lord Mansfield's refusal to permit an equitable title to be defeated by them in ejectment. But it is not quite clear to us, that Lord Mansfield intended to carry his doctrine to the length of destroying that sort of protection, such as it is, which purchasers may derive from outstanding terms. We do not doubt that Lord Mansfield thought, as the Real Property Commissioners think, that the sort of protection in question is open to objection, because "its effect is simply to transfer the injurious consequences of fraud from one innocent party to another, and generally to postpone or exclude a person who had, by priority in point of time, the best equitable claim." We are quite sure that he must have thought that unlawfully climbing into an open



window, is not a sort of diligence which the law ought to reward, and it is therefore not impossible that he wished to go the whole length imputed to him in his career of judicial legislation; that he wished to prevent the setting up of an outstanding term in ejectment, as well when the object of setting it up is to take away the fair advantage which one equitable title ought to have over another by priority in point of time, as when the object of setting it up is to defeat an equitable title.

It rather appears to us, however (but upon such a matter we wish to speak with great diffidence), that Lord Mansfield meant to do no more in this than, as in the other reforms which he meditated, to give to the suitors in his court the same measure of justice which they would obtain in a court of equity. In the cases which we have before examined, many expressions of his will have been observed, showing that such was the object which principally occupied his mind. From the judgment in the case of *Goodtitle v. Morgan*, it is clear that Mr. Justice Buller did not intend to destroy the protection of outstanding terms; that he only intended to give as good equity, without aspiring to give better equity, than those courts which in the English system claim the monopoly of that article.

And if this was all that Mr. Justice Buller intended, we may reasonably infer, from the general agreement of his opinions with those of his great master, that Lord Mansfield intended no more. Yet one of the highest equity authorities now living, speaks of him as if his object had been to alter at his pleasure the substantive law of England, instead of to bring about the uniform administration of that substantive law in all courts which are empowered to administer it at all.

The authority we speak of is Sir Edward Sugden. In his "Vendors and Purchasers," he says, "In the same case of *Doe v. Pegge*, Lord Mansfield observed, that 'trusts are a mode of conveyance peculiar to this country. In 'all other countries the person entitled has the right and possession in himself; 'but in England, estates are vested in trustees, on whose death it becomes difficult to find out their representatives, and the owner cannot get a complete title. 'If it were necessary to take assignments of satisfied terms, terrible inconveniences would ensue from the representatives of the trustees not being to be 'found. Sir Edward Northey's clerk was trustee of near half of the great estates 'in the kingdom. On his death, it was not known who was his heir or representative; so that, where a trust-term is a mere matter of form, and the deeds 'mere muniments of another's estate, it shall not be set up against the real 'owner.' It must excite surprise, that Lord Mansfield should have imagined that any rule, whose tendency it was to subvert what was peculiar to this country could long subsist, while the peculiarity itself was allowed to exist. As well might you admit the rule which excludes the half-blood, and yet in the face of contrary evidence, presume that a brother of the half-blood proceeded from the same couple of ancestors as the person last seised. Is the whole system of trusts to be subverted, because sometimes an obscure trustee dies without relations? Or is the legal estate to subsist or not, according to the expense which a re-conveyance may occasion in any given case? This doctrine never could stand the test of an accurate investigation, and has long since been overruled. They, who have best understood the doctrines of equity, have powerfully deprecated their adoption by courts of law."—pp. 421-2.

Lord Mansfield's object was (as our object now is) to make the administration of English law consistent, by assimilating the irrational to the rational portion of it. Yet he is here studiously represented as intent upon altering the law itself, and assuming a dominion over it which no Chancellor ever arrogated to himself.

"As well," says Sir Edward Sugden, "might you admit the rule which excludes the half-blood, and yet, in the face of contrary evidence, presume that a brother of the half-blood proceeded from the same couple of ancestors as the person last seised."

We venture to say there is no similarity between the illustration and the thing illustrated. If the Chancellor would grant an injunction to prevent the more distant relation of the whole blood from depriving the nearer relation of the half blood of the inheritance, or would decree a conveyance from the former to the latter, then, no doubt, Lord Mansfield would have lamented that he should be called upon in a court of law to make a decision against the half-blood, "merely

"merely for the sake of giving the Court of Chancery an opportunity to undo all again," and would perhaps have refused to do so. But no Chancellor ever did grant such an injunction, or decree such a conveyance.

With respect to the concluding sentence of our quotation from Sir Edward Sugden, "They who have best understood the doctrines of equity, have powerfully deprecated their adoption by courts of law," we presume to remark that, if by "powerfully" is meant "vehemently," and even "passionately," the assertion is undeniable; but if by powerfully is meant "with great force of argument," the assertion seems to us to be disproved by the numerous examples to which we have had occasion to refer in the course of this discussion.

That there is, however, some force of argument in these instances, we have not denied. In the instance now under consideration we have not denied that there is force in Lord Eldon's objection, that "at law the defendant is not heard, one witness proves the case, and however strongly the defendant may be inclined to deny it upon oath, there must be a recovery against him." But this objection does not lie against our scheme, for our new court, as we have already pointed out, is armed with more effectual powers of investigation than any existing court whether of law or equity.

As the effect of setting up an outstanding term in ejectment is to prevent a court of law from exercising jurisdiction over a subject over which it would otherwise have jurisdiction, it will be necessary to add to the draft Act which we have sent up to Government, a proviso, to the effect that whenever a suit in the nature of an action of ejectment is brought in the subordinate civil court, and an outstanding term is set up against equity and good conscience, the court shall give judgment according to equity and good conscience, as if such outstanding term had not been set up.

The only other case we shall adduce is that of *Gladstone v. Hadwen*. In that case it will be seen that four very eminent English judges, Lord Ellenborough, C. J.; Grose J.; Le Blanc J., and Bayley J., distinctly admit the value of the principles for which we are contending, and, feeling themselves in that case unfettered by technical rules, decided upon those principles.

We are almost ashamed to appeal to the authority of great names in support of a doctrine which seems so capable of standing upon its own merits, as that one set of courts should not be compelled to make work for another set by giving decisions which they know that other set will immediately render of no effect. But, as the truth of the doctrine is denied, and great names are cited against it, we have not thought ourselves justified in neglecting that kind of support.

"Lord Ellenborough, C. J., delivered the judgment of the Court. After stating the facts of the case, his Lordship said: The question is whether Sill & Co. had such a property in the bills of exchange, &c. as passed to their assignees. We are of opinion that they had not. In this case bills were obtained by the bankrupt (Sill) under a false pretence of giving the defendant an ample security, by delegating to him a right to hold coffee; whereas the coffee (which was the security pretended to be given) was the property of another person, over which Sill had no control or lien, or if he had, had before pledged it in favour of another creditor. The bills therefore appear to have been obtained by a criminal fraud. It has been argued, indeed, on behalf of the assignees, that the property vested in them under the commission, and in support of the argument it is supposed that, by analogy to cases in the criminal law, the property may be considered as having passed from the defendant to Sill & Co., but if it did, it was under such circumstances as a court of equity, on a bill filed; would have directed the property to be restored. If that be so, we think it would be useless for a court of law to permit that to be recovered which could not be detained one moment. In *Scott v. Surman* \* Willes, C. J., says, 'My notion is (and that opinion is confirmed by many authorities cited by Mr. Durnford in a note), that assignees under a commission of bankrupt are not to be considered as general assignees of all the real and personal estate of which the bankrupt was seised and possessed, as heirs and executors are of the estate of their ancestors and testators; but that nothing vests in these assignees, even at law, but such real and personal estate of the bankrupt in which he had the equitable as well as legal interest, and which is to be applied to the payment of the bankrupt's debts. And I found this opinion both on the reason and justice of the case, and likewise on the several statutes made concerning

\* Willes, 402.

'bankrupts which relate to this point. As to the reason of the case, I rely upon the rule concerning circuitry of action. For I think it would be absurd to say that any thing shall vest in the assignees, for no other purpose but in order that there may be a bill in equity brought against them, by which they will be obliged to refund and account; and, according to the case of *Burdett v. Willett*, will likewise have costs decreed against them; and so the effects of the bankrupt, which ought to be applied to the discharge of his debts, will be wasted to no purpose whatever.' On these principles, and on the authority of the cases cited, we are of opinion, that the assignees are not entitled to recover this property, which, if they were to recover, a court of equity would compel them to restore; but that the defendant is entitled to retain it."—1 M. and S. 525.

We shall conclude this report by quoting, from Reeves's History of the English Law, an anecdote of Sir Thomas More, which rests upon the excellent authority of Roper.

"Sir Thomas More being informed that the judges had expressed their disapprobation of the injunctions he had granted, caused a docket to be made of every injunction, and the cause of it, which he had granted while he was Chancellor; and inviting all the judges to dine with him in the Council Chamber at Westminster, he introduced the subject after dinner, when, upon full discussion of every one of them, the judges confessed that he could have acted no otherwise. He then offered, that if the judges of every court, to whom it more especially belonged, from their office, to reform the rigour of the law, would upon reasonable consideration, by their discretion, and as he thought, they were in conscience bound, mitigate and temper the rigour of the law, no more injunctions should be granted by him. To this they would make no engagement; upon which he told them, that as they themselves forced him of necessity to issue injunctions to relieve the people's injuries, they could no longer blame him."—Roper's Life of Sir Thomas More, 58, cit. Reeves, 4, 376.

Upon the perusal of this anecdote, the somewhat melancholy reflection naturally suggests itself to the mind, that if the great Chief Justice whose doctrines we have been endeavouring to rescue from unmerited obloquy, and to bring into practice under the sanction of legislative authority, had been contemporary with the great Chancellor, of whom the anecdote is related, and his fellow labourer in the formation of our judicial system, the boasted antagonism of law and equity, which is peculiar to it, would at this day have been altogether forgotten, or would have been remembered only as an antiquated barbarism, scarcely to be explained by the rudeness of the times in which it had its origin.

We submit this our Report for the consideration of your Honour in Council.

(signed) C. H. Cameron.  
F. Millett.  
D. Elliott.  
H. Borradaile.

Indian Law Commission,  
15 February 1844.

P. S.—While we were writing this Report, we received a minute from Sir Erskine Perry, and shortly after, a letter from Sir Henry Roper. And just as we had finished the Report, we received a joint letter from Sir Lawrence Peel, Sir John Peter Grant and Sir Henry Wilmot Seton, with a minute of Sir Lawrence Peel annexed.

We have printed these documents, all of which relate to the subject of our Report, in an Appendix; and we beg most earnestly to call the attention of the Supreme Government to them.

We have read them ourselves with extreme satisfaction.

We must not conceal, however, that there is an important difference between the judges of the Supreme Court at this Presidency and ourselves, on the subject of bringing the parties into the presence of the judge at the beginning of the suit, and settling the issues of law and fact, by means of an oral discussion between the parties, assisted by their legal advisers (when they have any), under the superintendence and control of the court.

With this important exception, there is, we believe, no substantial difference between the judges of the Calcutta Court and ourselves.

On the main subject of our Report, the union of equity jurisdiction with common-law jurisdiction, there is certainly no substantial difference, though the

the means by which we have proposed to attain our common object are not exactly the same.

On the logical principles of pleading, considered without reference to the question whether it should be oral or written, we agree with the judges of this Presidency and with Sir Henry Roper. But we are quite of Sir Erskine Perry's opinion as to the superiority of oral over written pleading.

It is scarcely necessary for us to remark, that we concur in what he has said upon the joint administration of law and equity.

We have mentioned in our Report, that we considered anxiously whether it would be better to treat the topic of the incorporation of equity jurisdiction with common-law jurisdiction abstractedly, or by a critical examination of the principal English cases which bear upon the subject, and that we decided upon the latter course.

Perhaps, for the sake of completeness, the topic ought to have been treated in both ways, and what was thus wanting to the completeness of our Report, has here been supplied by Sir Erskine Perry.

In like manner we considered (though we have not mentioned it in our Report) whether we should expose what appear to us to be the inherent defects of the English system, or confine ourselves to that copy of it which we are endeavouring to reform, and in which the unreasonable and extravagant features are exaggerated in consequence of the different jurisdictions known in the English system, being here conferred upon one and the same body of judges.

We adopted the former plan because we desired to go to the very root of the evil, and because in our Report upon a *lex loci* for British India, we had pointed out that, "in the modification of that system (the English system) which has been introduced into the Indian Presidencies, the anomalous and extravagant features are exaggerated beyond those of the parent institutions.

"That the Chancellor (we observed) should order a man not to apply to the courts of law for his legal rights; that the courts of law should be bound neither to know nor care whether the Chancellor has done so or not; that the Chancellor should not be permitted to hear *vivâ voce* evidence, but should be obliged to send his suitors to ask the courts of law to do it for him; that the courts of law in their turn should not be permitted to order witnesses to be examined by Commission, but should be obliged to send their suitors to ask the Chancellor to do it for them; these and other things of the same stamp do not look like the productions of political wisdom. We know, in fact, that the only explanation which can be given of them is not to be sought in jurisprudence, but in history.

"But the copy of these things (we added), which has been established in the Presidencies of India, bears still fewer marks of design."

We then went on to show what consequences might result, and do actually result from the system as it exists here, how loudly they call for a remedy, and how easy the remedy is.

We are extremely glad to find the proposition that, "in a court constituted like the Supreme Court, where the same judges preside on all sides of the court, much may be done in the simplification and improvement of a system of equity, which it has not hitherto been found practicable to effect in England," laid down and illustrated by Sir Lawrence Peel in a way which leaves nothing to be desired, and thus supplies what might be thought an omission in our present treatment of the subject.

#### AN ACT for establishing a Court of Subordinate Civil Jurisdiction in the City of Calcutta. (Revised Draft.)

Legis. Cons.  
11 May 1844.  
No. 6.

*N. B.*—What is new is printed in Italics. Clauses of the former Draft omitted in this, are printed within brackets in the margin.

WHEREAS it is expedient that as soon as the necessary arrangements can be made, a College of Justice, consisting of the Judges of the Supreme Court at Fort William in Bengal, and of the Judges of the Sudder Dewanny Adawlut, should be erected, for the ultimate decision, as regards India, of appeals from all

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courts as well in the city of Calcutta as in the other parts of the Presidency of Bengal, and it is expedient that some new provision should be made for the trial of original suits within the local jurisdiction of the said Supreme Court :

And whereas Her Majesty's Supreme Court of Judicature at Fort William in Bengal is not authorized in civil actions at law to examine the parties to such actions, by reason whereof the truth of the case must sometimes be concealed from the said court, or can only become known to it by means of a bill in equity for a discovery, which is a proceeding unnecessarily dilatory and expensive, and much less efficacious for the manifestation of the truth of the case than examination and cross-examination *vivâ voce* in open court :

And whereas the procedure in civil actions in the said court is more dilatory and expensive than is necessary for the ends of justice :

[And whereas the jurisdiction of the court of requests for the recovery of small debts in and for the settlement of Fort William, is limited to suits brought for the recovery of such debts.]

*And whereas it is expedient that the court which has jurisdiction over the subject-matters of actions at law should have power to make decrees upon such subject-matters, according to equity and good conscience following the law :*

[And wheress it is inexpedient that the jurisdiction of the said court of requests should be extended.]

*And whereas when a new court, free from the defects above-mentioned, has been established, it will be unnecessary to have any separate jurisdiction for the recovery of small debts ;*

It is hereby enacted, that from and after the \_\_\_\_\_ day of \_\_\_\_\_ the court of requests for the recovery of small debts in and for the settlement of Fort William in Bengal shall be abolished, and that on the said day a court for the exercise of original civil jurisdiction in the city of Calcutta shall be established, and shall be called the Subordinate Civil Court for the City of Calcutta.

II. And it is enacted, that the said Subordinate Civil Court shall consist of as many Commissioners as to the Governor of Bengal shall from time to time seem meet, and that each of the Commissioners sitting separately shall exercise all the jurisdiction and powers herein conferred upon the said Subordinate Civil Court: Provided always, that at least one of the said Commissioners shall be a barrister of not less than five years' standing.

III. And it is enacted, that one of the Commissioners, being a barrister of five years' standing, shall be the Chief Commissioner.

IV. And it is enacted, that each of the Commissioners shall receive such salary as to the Governor-general in Council shall seem meet, respect being had to the qualifications of each.

V. And it is enacted, that the jurisdiction of the said Subordinate Civil Court shall, both as regards the nature of the matter in dispute and the local situation thereof, extend to all matters for which a civil action at law may be brought in Her Majesty's Supreme Court of Judicature: *Provided that whenever a suit in the nature of an action of ejectment is brought in the said Subordinate Civil Court, and an outstanding term is set up against equity and good conscience, the court shall give judgment according to equity and good conscience, as if such outstanding term had not been set up.*

VI. *And it is enacted, that the jurisdiction of the said Subordinate Civil Court shall, as regards the persons to be subject thereto, extend to all persons inhabiting or seeking a livelihood within the city of Calcutta; and that it shall be lawful for the Governor-general in Council from time to time to extend the local limits of the said jurisdiction, by proclamation to be issued for that purpose.*

**Former Section  
VI.**

VII. And it is enacted, that the said Subordinate Civil Court shall in every case make such decrees as may be agreeable to equity and good conscience, following such law as the said Supreme Court would have administered, if the matter had been brought before it in an action at law.\*

**Former Section  
VII.**

VIII. And whereas it is conducive to the good administration of justice, that the respectable part of the public should be associated therein: It is hereby enacted, that the Governor-general in Council may by proclamation order that every or any Commissioner of the said Subordinate Civil Court, shall, in all suits,

\* We believe this to be a correct legal description of the decrees which the Supreme Court makes when sitting in equity.

suits, or in any particular class of suits, and in all proceedings therein, or in any particular proceeding therein, sit with one or more jurors.

IX. Provided always, and it is hereby enacted, that the verdict of such juror or jurors shall be only for the information of the conscience of the court.

Former Section  
VIII.

X. And it is enacted, that the manner of commencing a suit in the said Subordinate Civil Court shall be as follows :

Former Section  
IX.

1. Each of the Commissioners of the said Subordinate Civil Court shall sit at stated hours for the purpose of receiving plaints.

2. Every plaintiff bringing a suit in the said Subordinate Civil Court shall, except as hereinafter excepted, appear in person before one of the Commissioners, and shall, orally or in writing, lay before such Commissioner the facts which constitute his claim.

3. The excepted cases in which the plaintiff shall be excused from appearing in person for the purpose of making the statement of facts mentioned in the last clause, are the same as the excepted cases specified in clause 15 of this section, but the plaintiff shall in all cases be permitted to make the statement of facts by an agent, provided he deposit in court the sum of                      rupees.

4. The sum so deposited shall be held as a security for any thing which may be, or which may become due to the defendant, or to the Government, in respect of the matter of the suit, or in respect of the mode of conducting it : if nothing shall so be or become due, the sum shall be repaid to the plaintiff.

5. If the plaintiff lays the facts before the Commissioner orally, the facts, whether stated of his own accord or elicited by examination, shall be reduced into form and written down by the Commissioner, or by an officer of the court under his direction, and shall constitute the plaint.

6. If the plaintiff lays the facts before the Commissioner in writing, the written statement shall be corrected in form by the Commissioner, or by an officer of the court under his direction, if it requires such correction, and in substance, if it in any respect disagrees with the statement of facts elicited by the examination of the plaintiff : subject to such correction the written statement shall constitute the plaint.

7. When the statement of facts constituting the plaint has been made, the Commissioner, if he is of opinion that the plaint does not contain any cause of action against the defendant, or that the defendant, or the matter of the suit, is not within the jurisdiction of the Subordinate Civil Court, shall make a decree accordingly.

8. If the Commissioner is of opinion that the plaint contains a cause of action against the defendant, and that the defendant and the matter of the suit are within the jurisdiction of the Subordinate Civil Court, he shall direct a writ of summons to be issued to the defendant.

9. The writ of summons shall contain a copy of the plaint, and an order to the defendant to appear before the court on a specified day, and to bring with him any documents which he may have in his possession, of which the plaintiff, with the consent of the Commissioner, demands inspection, or which he the defendant may think conducive to his defence, and a list of such witnesses as he supposes may be necessary for his defence.

10. If the plaintiff satisfies the Commissioner that the defendant is likely to withdraw himself from the jurisdiction of the Subordinate Civil Court, the Commissioner may direct a warrant of arrest against the defendant to be issued, together with the writ of summons.

11. If the defendant is arrested on the warrant, he shall be brought with all convenient speed before the Commissioner, who may discharge him from custody if he gives sufficient security for his appearance, or if he deposits a sum which the Commissioner considers under all the circumstances of the case sufficient, or if he satisfies the Commissioner that he does not intend to withdraw himself from the jurisdiction.

12. On every day on which any of the Commissioners shall sit for the purpose of receiving plaints, all the plaints received shall be laid before the chief Commissioner, who will distribute them among all the Commissioners, including himself.

13. In distributing the plaints the chief Commissioner will endeavour to give to all the Commissioners a share of business which will occupy an equal portion

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of the time of each, and to give to each Commissioner those kinds of suits which he thinks each best qualified to decide.

14. Every plaintiff and defendant in the said Subordinate Civil Court shall appear, except as hereinafter excepted, in person, on the day specified in the writ of summons, and on every other day fixed for their appearance by the Commissioner.

15. A plaintiff or defendant may be excused from appearing in person, if ill; if absent from Calcutta; if engaged in the public service; if exempted on account of rank by the regulations from appearing in the courts of the East India Company; if of advanced age; if of the female sex; if there is a co-plaintiff who appears in person; if there is a co-defendant, defending jointly; if not personally cognizant of the matter in dispute.

16. But in all these cases the Commissioner may refuse to hold the party excused from appearing in person, if he is not satisfied that the excuse is made in good faith, and that the matter of the excuse exists in a sufficient degree to justify him in admitting it.

17. Whenever an agent has been admitted in place of a party, such agent shall be permitted to do all the party might have done had he appeared, and shall be liable to be examined and cross-examined in the same manner.

18. And the Commissioner may, if he thinks fit, order that the party excused shall be examined in any way in which a witness may be examined.

19. When the Commissioner has refused to hold any party excused, he may order the agent who makes the excuse to summon the party on whose behalf it is made on a specified day, and adjourn the proceedings to that day, or he may make a decree against such party after examining his agent.

**Former Section**  
**X.**

XI. And it is hereby enacted, that as soon as the plaintiff and defendant are together before the Commissioner to whom the suit has been assigned, he shall proceed to take the pleadings, and settle the demurrers and issues of fact.

**Former Section**  
**XI.**

XII. And it is hereby enacted, that the manner of pleading shall be as follows:

1. The defendant, in answer to questions put by the Commissioner, shall confess or deny each of the material allegations contained in the plaint, and shall state any matter whereby he proposes to avoid the plaintiff's right to a decree arising out of such allegations contained in the plaint, as he has confessed.

2. The defendant may demur if he thinks the plaint states a case insufficient to entitle the plaintiff to a decree.

3. The defendant shall not be precluded from demurring to any matter in the plaint because he has pleaded to it, nor shall he be precluded from pleading to any matter in the plaint because he has demurred to it.

4. The defendant shall not be precluded from denying as many of the allegations in the plaint as he disbelieves.

5. The defendant shall not be precluded from avoiding the plaintiff's right to a decree arising out of any allegations in the plaint which the defendant has confessed, by the statement of as many matters as he believes to be true.

6. The Commissioner, in taking down the pleadings in writing, will take care that pleas shall be kept distinct from demurrers, and that no pleas shall be double.

7. The Commissioner will also take care that the pleadings shall not be argumentative, and shall state matters of fact only, and not evidence of matters of fact, and shall in other respects be such as to lead directly to distinct issues of law or fact, and that each issue shall have as much particularity as conveniently may be.

8. All the above rules of pleading shall be applied, as far as they are capable of such application, to the subsequent stages of the pleadings.

9. If after the demurrers and issues of fact have been settled, a decree can be properly made without further evidence than that of the parties, and without argument on the law or equity and good conscience of the case, the Commissioner will make his decree immediately.

10. The plaintiff and defendant may, through the medium of the Commissioner, cross-examine each other as to any matter affirmed or denied on either side in pleading.

11. If any demurrer results from the pleadings which the Commissioner thinks



thinks fit for argument, he will, after consultation with the parties, fix a day for the argument on it.

12. If any issue of facts results from the pleadings upon which it is necessary to hear evidence, the Commissioner will make a note of the names of the witnesses on both sides, and of the facts which each of them is expected to prove, and the documents which each of them is expected to produce, and will grant such subpoenas and subpoenas duces tecum as appear to him to be necessary for the purposes of justice, and will, after consultation with the parties, fix a day for the taking of evidence.

XIII. And it is hereby enacted, that if any Commissioner, not being a barrister, perceives, while he is receiving a plaint, or while he is taking the pleadings, or in any subsequent stage, that the suit is one which in his opinion ought not to proceed before a Commissioner who is not a barrister, he may hand over the suit to the Chief Commissioner, and direct the parties to go before the said Chief Commissioner, who shall proceed with the suit.

Former Section  
XII.

XIV. And it is hereby enacted, that if it shall appear to the Commissioner at any stage of the suit, that justice cannot be done without the presence and concurrence of some person not a party to the suit, the Commissioner may summon such person to appear, and may make a decree which shall be binding upon such person, making such order regarding the costs as shall be agreeable to justice.

Former Section  
XIII.

XV. And it is hereby enacted, that if in the course of a suit the parties shall disagree as to the balance of an account, the Commissioner may direct that the account be referred to an arbitrator nominated by the parties, or, in default of such nomination, to an officer of the court; and such arbitrator or officer will report the amount due on either side, subject to any exceptions, which the Commissioner will hear and decide.

Former Section  
XIV.

XVI. And it is hereby enacted, that in all suits for the breach of a contract, if it shall be made to appear to the Commissioner that the contract may be performed without prejudice to the plaintiff, and that the defendant is able to perform it, the Commissioner may direct a specific performance of the contract, and enforce it by attachment.

Former Section  
XV.

XVII. And it is hereby enacted, that the Commissioner in his decree shall order how much of the amount of any fees which may have been paid or be payable to any attorney or barrister, shall be reckoned as costs between party and party; and what other expenses incurred by the parties in prosecuting or defending the suit shall be reckoned as costs between party and party, and shall order in his decree which party shall pay costs to the other, and to what amount.

Former Section  
XVI.

XVIII. Provided that no fees which may have been paid or be payable to any attorney or barrister shall be reckoned as costs between party and party, unless the Commissioner shall be satisfied that the assistance of such attorney or barrister was reasonably required.

Former Section  
XVII.

XIX. And whereas it is expedient that inconsiderate litigation should be discouraged, and that those who sue or defend inconsiderately should contribute towards the expenses of the judicial establishment: It is hereby enacted, that in every suit in the said Subordinate Civil Court, the party or parties against whom the decree is made shall, if plaintiff or plaintiffs, pay a fee equal to

Former Section  
XVIII.

of the value claimed in the plaint; and if defendant or defendants, a fee equal to of the value decreed.

XX. Provided that the Commissioner may remit such fee if he shall be satisfied that the party or parties against whom the decree is made had reasonable ground for suing or defending.

Former Section  
XIX.

XXI. And whereas it is expedient that parties to suits who prevaricate or wilfully make false statements should be punished: It is hereby enacted, that whenever the Commissioner is satisfied that any party to a suit in the said Subordinate Civil Court has, by himself or his agent, prevaricated or wilfully made a false statement, he may in his decree impose upon such party a fine not exceeding and in default of payment may order such party to be imprisoned for a period not exceeding

Former Section  
XX.



- Former Section XXI.**      **XXII.** And it is hereby enacted, that the amount of the fees and fines aforesaid shall be paid monthly into the treasury.
- Former Section XXII.**      **XXIII.** And it is enacted, that the members of the College of Justice, or the majority of them, may from time to time make such rules for the regulation of the proceedings of the said Subordinate Civil Court as to them may seem meet, and as are not inconsistent with any thing in this Act contained; which rules shall be in force from their date, and shall continue in force unless they shall be disallowed by the Governor-general in Council within the space of  
from their date: provided that such rules shall be laid before the Governor-general in Council within the space of from their date.
- Former Section XXIII.**      **XXIV.** And it is enacted, that the sheriff of Calcutta shall execute the process of the said Subordinate Civil Court, and shall, in respect to the execution of such process, be subject to the authority of the said Subordinate Civil Court, and shall for his trouble in executing such process receive from the public treasury such remuneration as to the Governor-general in Council shall seem meet.
- Former Section XXIV.**      **XXV.** Provided that such remuneration shall be proportioned to the quantity of labour imposed upon the said sheriff in each month in the execution of the said process.
- Former Section XXV.**      **XXVI.** And it is enacted, that any suitor in the said Subordinate Civil Court who shall feel himself aggrieved by any decree thereof, except decrees in such suits as are otherwise provided for in section XXVIII. of this Act, may appeal from such decree to the College of Justice for the Presidencies of Bengal and Agra, established by the Act of the Council of India, No. , subject to such rules as are contained in that Act; or, subject to such rules, may move the said College of Justice for an order to the Subordinate Civil Court to reconsider its decree, or for an order to the said Subordinate Civil Court for a new trial of the facts on which its decree is founded.
- Former Section XXVI.**      **XXVII.** And it is hereby enacted, that the said College of Justice shall not alter or reverse any decree of the said Subordinate Civil Court, nor grant an order to reconsider any decree of the said Subordinate Civil Court, nor grant an order for a new trial of the facts on which any decree of the said Subordinate Civil Court is founded, if the decree be consistent with the justice, conscience and equity of the case.
- Former Section XXVII.**      **XXVIII.** And it is hereby enacted, that any suitor in the said Subordinate Civil Court who shall feel himself aggrieved by any decree thereof which has been made by a Commissioner who is not a barrister, in a suit for goods sold and delivered, for money lent, for money due for the hire of any personal property, or for wages, in which the value in dispute shall not exceed the sum of 400 rupees, may appeal from such decree to the Chief Commissioner of the said Subordinate Civil Court, subject to the same rules, as nearly as may be, as the parties appealing to the College of Justice under section XXVI. and that the said Chief Commissioner shall in such cases deal with the decree as the said College is directed to deal with the decrees by section XXVII. of this Act.
- Former Section XXVIII.**      **XXIX.** And whereas, although the several provisions hereinbefore contained for the constitution of the said Subordinate Civil Court are all copied, more or less exactly, from the provisions for the constitution of the several sorts of courts used in the administration of English law and equity, yet the combination of the said several provisions in one court is new and experimental; and it may happen that a people accustomed to the administration of justice by civil action at law in Her Majesty's Supreme Court, may feel aggrieved if they are deprived thereof; it is hereby declared and enacted, that nothing in this Act contained, shall be construed to affect the jurisdiction now exercised by the said Supreme Court in civil actions at law.

## APPENDIX.

MINUTE on the Supreme Court, Bombay, by Sir *Erskine Perry*, Puisne Justice.

1. The question upon which the judges have been requested to deliver their opinion by the Law Commissioners, in the 7th and 8th paras. of their letter dated 6th May 1843, may be stated thus : " What number of officers and what amount of salaries would be required to render the Supreme Court efficient in every department, if it were now to be established for the first time ? " for the queries as to consolidation of offices, in para. 7, seem all incorporated in the above general inquiry.

2. If the examination of this subject is to be made with reference to the existing procedure of the court, it may be very easily disposed of ; for, with the exception of one or two slight consolidations which may, I think, be effected, though with more nominal than real benefit, I conceive that very few beneficial alterations can be made. But as the inquiry touches upon a subject to which I have paid a good deal of attention, and as I feel a strong conviction that the working system of the court, with respect to its efficiency to the public, is by no means well adapted to its purpose ; that it is grievously costly both to Government and to suitors ; that the expenditure it occasions to the latter is ordinarily so great as to shut out from the court a large portion of bonâ fide claims ; that this costliness of procedure is unattended with any corresponding advantage in bringing cases clearly and fully before the judge ; and as I believe that these defects are nowise inherent in the system, but are easily removable by the Legislature, I venture to put before the Law Commission, at some length, the grounds on which I have adopted the above conclusions, and the remedies which I conceive are applicable. It will be found that the latter involve a complete answer to the question in the first paragraph.

3. It may be well to commence with a slight sketch of the legal wants of the suitors amenable to the Supreme Court at Bombay, and of the amount of business transacted in it. The population of the island of Bombay is said to consist of above 300,000 souls, and these, with the few hundred Europeans scattered over the Presidency, are all that the court has any jurisdiction over. But it is impossible to measure the amount of law business which may be calculated to arise in a population of this number, by any data which may be furnished from the statistics of a European community of equal extent. In Europe, the great bulk of the population are hewers of wood and drawers of water, day labourers living on their daily hire, and possessed of no funds on which civil controversies can arise ; the commercial classes, on the other hand, are composed comparatively of very few individuals. In an Indian trading community, however, and especially in Bombay, it is difficult to conceive, till witnessed, the extent to which mercantile adventures and all kinds of speculation are diffused throughout the masses. Hence arises an infinitude of disputes, and with them an urgent necessity for a simple tribunal, which shall baffle dishonesty and adjust unavoidable controversies.

4. Notwithstanding, however, that these fertile elements of litigation in a Hindoo community are always in operation, the total amount of business in the Supreme Court is very small, as will be seen from the following Tables, which I have drawn up from the books of the court for the last three years.

No. 1.—Number of Causes tried on the Plea Side during the Years 1840, 1841, 1842.

	1840.	1841.	1842.
Defended Causes - - - - -	27	23	42
Undefended ditto - - - - -	7	9	13
TOTAL - - - - -	34	32	55

No. 2.—Number of Causes tried in the Small Cause Court (Debts under 360 Rupees) during the same Period.

	1840.	1841.	1842.
Defended Causes - - - - -	116	98	87
Undefended ditto - - - - -	527	555	560
TOTAL - - - - -	643	653	647

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**No. 3.—Number of Decrees made in Equity Suits during the same Period.**

	1840.	1841.	1842.
Decrees on Argument - - - -	7	18	15
Ditto by Consent - - - -	6	-	3
<b>TOTAL - - -</b>	<b>13</b>	<b>18</b>	<b>18</b>

5. The whole of the above business, with the exception of the small causes, which occupy from two to three hours every Thursday, is transacted in term time, and consumes about 52 days.\*

6. It will be seen, therefore, that the amount of business transacted is exceedingly small, and although the number of suits in the mofussil courts is annually increasing, those in the Supreme Court appear to decline in a like ratio.† If this result were the consequence of an improved state of morality, or of a growing conviction that a speedy remedy could always be insured against injustice, it would be matter for sincere congratulation; but no such Utopian view can be entertained by any one who knows Bombay, or the Indian character generally.

7. The explanation therefore is to be sought elsewhere; and it is to be found, I conceive, in the extreme costliness of proceedings in the court, and in the uncertainty which waits upon decision from the complicated codes of practice in operation; both of these causes being in fact resolvable into one, viz. the defective procedure of the court.

8. The expenses of suing on the plea side of the court are given in the two following Tables, which I have framed from the taxing officer's books on bills taxed during the last three years.

**No. 1.—Taxed Costs in Defended Causes.**

	1840.	1841.	1842.
	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>
Plaintiff's Costs - - - -	733	592	564
Defendant's ditto - - - -	635	430	612
<b>TOTAL - - - Rs.</b>	<b>1,368</b>	<b>1,022</b>	<b>1,176</b>

**No. 2.—Plaintiff's Taxed Costs in Undefended Causes.**

	1840.	1841.	1842.
Ex parte - - - - - <i>Rs.</i>	494	451	400
Cognovits - - - - - <i>Rs.</i>	159	175	233

9. It thus appears that a defended cause in the Supreme Court costs the losing party about 1,200 rupees; that an undefended cause costs about 450 rupees, and that even in causes

\* The sittings of each Judge throughout the year amount to about 114 days, thus—

	Days.
Four terms, of 19 days each, but excluding Sundays, Thursdays, alternate Mondays, and Hindoo holidays, amounting to about 13 each - - -	52
Four criminal sessions, of about eight days each, gives to each Judge - - -	16
Two days in chambers per week for small causes, and for Insolvent Court, gives to each, say - - - - -	46
<b>Total - - - -</b>	<b>114</b>

and the total number of sitting days for the public by both Judges conjointly, is 176.

† The number of plaints filed on the common law side of the court have fallen off 20 per cent. during the last three years, as taken on an average of the preceding 10 years.

causes when the defendant confesses the claim, or gives a cognovit on the first opportunity he has to do so, the expenses amount to no less than 189 rupees.\*

10. No one I think can look at these sums total without perceiving that they are enormously high, whether taken absolutely or in relation to the costs of litigation in England. For although law proceedings are very expensive there, and so much dreaded, that, as Lord Brougham stated in a debate during the present Session, a wise man sits down under any loss not exceeding 150 L. rather than bring his case into court, still the great bulk of the expenses in England consists in the expenses of conveying witnesses to distant courts, and of subsisting them till the trial is over; whereas in India no such item ever enters into a bill of costs, and I think I may safely say, that with the exception of briefs to counsel, nine-tenths of the items in the bills alluded to are referrible to mere useless procedure and needless fees.

11. I offer, as an illustration of the last remark, the bill of costs on suing in the Small Cause Court, which, as I have before observed, entertains a jurisdiction over claims not exceeding 350 rupees; and in order to obviate an objection that lies on the surface, I have no hesitation in stating, that so far as my experience goes, the immense expenditure which attends a trial in the full court, is not rewarded by bringing the case to be tried a whit more satisfactorily before the judges; and, for reasons which I will state hereafter, I believe that the materials for a correct judgment are more frequently supplied in the court of simpler procedure.

Average Costs of Trial on Defended Causes in the Small Cause Court.

	Rs.
Plaintiff's Costs - - - - -	37
Defendant's ditto - - - - -	13
<b>TOTAL - - - - -</b>	<b>Rs. 50</b>

Costs in Undefended Causes.

	Rs.
Ex parte Causes - - - - -	41
Cognovits given - - - - -	12

12. But if the expenses of suing on the common law side are thus high, they are trifling when compared with those on the equity side; and it is perhaps sufficient to say, that as the length of an equity suit when compared with a common law cause may be reckoned by years almost instead of months, so the costs of such suits may be counted in thousands instead of hundreds of rupees, as in the other case.

13. Having thus shown how costly litigation is, and having stated my opinion that it is in great part referrible to defective procedure, I will now proceed to show what that procedure is.

14. When Sir Elijah Impey had the task before him of framing a judicial establishment for Calcutta, as the object was to afford a tribunal for every question that might arise, whether civil or criminal, legal or equitable, of ecclesiastical or admiralty cognizance, the course which he adopted of attributing to the court to be established the different jurisdictions which he had seen parcelled out amongst different tribunals in England, as it was the most obvious, so possibly was the most unobjectionable which he could have pursued. But as the object to be attained in every different department of the court was precisely the same, namely, to bring forward the case in controversy in the clearest and least vexatious manner possible, it might have been imagined that a uniform code of practice directed to that end would have been devised, preserving all the good portions of the methods in operation in the different courts for discovery of the facts, and rejecting all the bad, so as to form one rational simple system, which would have been as satisfactory to the judge to administer, as to the public whom it would have benefited. When it is seen, on the other hand, that the whole of the contradictory complicated, expensive codes of practice of all the different courts in England have been imported bodily into the one Supreme Court of India; that on this side of the court facts may be only elicited by vivâ voce examination, that on another they cannot be brought before the court except in writing; that a party to the cause may not be examined in the case in one instance (at law), that he may be in the same case (in equity); that the decision of the court on the plea side will give a matter in dispute to one party, that the decision of a court of equity will give it to another (in case there are funds sufficient to keep up the litigation); and that all these varying results and perplexing operations are only to be got at by vast expense and vexation; with these facts before our eyes, I say, it is not, I think, an uncharitable conclusion to arrive at, that the temptation of forming a costly establishment, with the number of offices to which these different codes of practice were to afford fees, and of

\* These Tables do not, in point of fact, represent the total average cost of litigation, because they are founded upon those bills only which are taxed (probably not more than half of the total number of bills), and the bills of larger amount are not brought into the Master's office at all for taxation, as the attornies are contented to make a small reduction to the party, and so to avoid the taxation. It is impossible, therefore, even for the judge, when he sets about the inquiry, to ascertain what the actual average cost of suing in his own court amounts to.

of which the founders were to have the patronage, must have completely kept out of view the interests of suitors and of the public.

15. To descend, however, a little more into detail, and show how the practice of the court works. In equity, as is well known, the plaintiff brings his case before the court in what is called a bill, which first of all states his grievance, and then proceeds to charge the defendant with any pretence for resisting the claim which his ingenuity may suggest (for plaintiffs are not limited to the truth of what they advance, and many equity draftsmen defend the introduction of falsehood into this part of the case), and it then proceeds to interrogate the defendant minutely on every species of knowledge which he may have of the matter under dispute. It may be easily conceived, that a document of this nature may run to any length, especially as the fees and costs of those who prepare it depend upon the number of words which can be heaped into it.

16. The first consequence of this mode of commencing the suit is, that the defendant who, fortunately, is bound to make his answer upon oath, requires a long period to answer each interrogatory in the bill, and as his object, even when a *bonâ fide* litigant, is to tell as little as possible that may injure himself, it usually happens, that when his answer is forthcoming, it evades to give the very information which the plaintiff has sought. Hence arises the necessity for further questioning on the part of the plaintiff, always, be it observed, in writing (amended bill); further fencing on the part of the defendant in answer, and so on backwards and forwards for many months or years, till so much time, trouble and money are expended, that even on the best administration of the system, as in England, it is in evidence\* that nine cases out of ten are driven to a compromise.†

17. It follows from this procedure, that even when a party is honestly contesting a suit, from 14 to 18 months are consumed before the case is ripe to be brought before the court (an operation which, in most instances, is merely ancillary to putting the cause into a train for inquiry in the Master's office); but if the defendant is dishonest as well as adverse, there is scarcely any period which can be assigned as a limit to his power of harassing his opponent. An illustration of this may be afforded by the minutes of proceedings in the following case, which fell to my lot to dispose of finally last year, after a litigation of ten years and a half, and which I had to analyse carefully, in order to ascertain where the costs should fall.

*Poonja Conja v. Abdul Rahim Khan.*

18. In 1830 a horsedealer at Bombay died, having left a will, by which he constituted the defendant his executor, who entered upon the testator's property and collected his assets. The plaintiff having a claim against the testator of between 2,000 and 3,000 rupees, applied to the defendant for payment of his debt, and at all events for an account of the testator's assets; but the defendant refused both one and the other. The plaintiff was, therefore, forced to file his bill against the defendant in the Supreme Court for an account and for payment. Three months afterwards the defendant put in his answer, and admitting the plaintiff's claim, alleged that he had no assets of the testator, &c. &c.

This answer, which was clearly insufficient, in withholding important information, was excepted to; and, on argument, a further answer was ordered. On the second answer being put in with the information in question, a clue was given to the plaintiff of facts, by which he was enabled to draw an amended bill, putting further inquiries to the defendant "for the purpose of scraping his conscience," to quote the language of an old equity draftsman before the House of Lords; and at the end of more than a year from the commencement of the suit, an answer to the amended bill was put in. This answer enabled the plaintiff to scrape the defendant's conscience once more; and then with further answer, replication, &c. the cause became at issue in about 21 months from the commencement of suit.

Witnesses had then to be examined on each side, and in about two years more the cause was brought into court, when a decree was made referring it to the Master's office to take an account of the estate of the testator come to the hands of the executor, and of the amount due to the plaintiff.

A long litigation of nearly four years took place on these points, in the Master's office, when a report was presented altogether against the defendant. This report was excepted to by the defendant; but all his objections were overruled, and the cause, on further directions, was again referred to the Master for an additional inquiry.

Another long litigation in the Master's office again took place, of nearly three years, when another report was presented, alike adverse to the defendant, who again excepted to it, and again had all his objections overruled; and, finally, in June 1842, a decree on all points raised by the defendant was made against him, when a further controversy was raised by him as to his non-liability to costs, on the ground of being an executor.‡

19. The

\* Report of Committee of the House of Lords on additional Vice Chancellors, 1841.

† That is to say, the party having a good case and undoubted claim, is induced to sacrifice a portion, in order to buy off the vexatious opposition of his opponent.

‡ Justinian lays down in one of his edicts, *Cod., III. 1. De Judiciis. tit. XIII.* that the blame of suits "*pœne immortales*" lies with the Judge, "*hoc etenim judicialis magis esse potestatis, nemo est qui ignoret; nam si ipsi noluerint, nullus tam audax invenitur, qui possit invito iudice litem protelare.*" But the only power which a judge has, in the present English system, of repressing dishonest litigation, consists in the infliction of costs, which often, as in the case in the text, turns out mere "*brutum fulmen.*"

19. The course of procedure in the above case may perhaps be more readily understood by the following list of dates :

Dec. 1830	-	Claim for payment.	24 July 1839	-	Master's report made.
4 Jan. 1832	-	Bill filed.	8 Aug. 1839	-	Exceptions by defend- ant.
21 April 1832	-	Defendant's answer.	23 Sept. 1839	-	Exceptions overruled, and further reference to Master decreed.
17 May 1832	-	A better answer.	30 May 1842	-	Master's second report.
10 Oct. 1832	-	Amended bill.	10 June 1842	-	Exceptions by defend- ant.
1 Feb. 1833	-	Defendant's answer.	27 June 1842	-	Exceptions overruled.
30 May 1833	-	Amended bill.	30 June 1842	-	Final decree for plain- tiff, and defendant cast in costs of suit.
20 Aug. 1833	-	Defendant's answer.			
25 Sept. 1833	-	Replication.			
5 Oct. 1833	-	Rejoinder.			
14 Nov. 1835	-	Cause argued, and re- ference to Master de- creed.			

20. If the case above cited had any extraordinary circumstances connected with it, it might be safely passed over as anomalous; but it is not so, it was a mere debtor and creditor controversy, and under a simple well-regulated system of procedure, it ought not to have lasted more than six months. If the plaintiff and defendant had appeared in court on the first day of the suit, it would have been evident that a decree referring to the Master must be made, and three years and a half of litigation would have been saved at once; and if the witnesses had been produced in court on any day or days after the first six months, all the facts on which the case subsequently turned might have been proved, and the same decree made, which it cost ten additional years, under the present practice, to obtain.

21. As I am discussing now merely the initiatory proceedings of a suit which tend to bring the case before the court, I will not touch upon the Master's office, where the cause in its further progress so constantly becomes engulfed; but I have already stated enough to make it apparent, that the ordinary procedure of a court of equity even between bona fide litigants, with its machinery of written pleadings and written evidence, necessarily involves an enormous expenditure both of time and money; and that when either of the parties is dishonest or vindictive, he has the power of harassing his opponent, and protracting the suit almost without bounds.

22. In reprobating equity practice, however, so strongly as I do, I by no means wish to have it supposed that I desire to supersede it by that of common law, or to make special pleading the channel for bringing controversies before the court. On the contrary, I think it wholly unsuited to the country. A creature of English lawyers, and arising out of the simple *vivâ voce* pleadings of suitors at the bar, it has shaped itself at home into perhaps not an ineligible mode of trying certain questions, but wholly with reference to the peculiarity of the tribunal before which it is employed. All the rules of special pleading which have been framed with reference to any definite object, have had in view the separation of the law from the facts, so as to enable the former to be disposed of by a tribunal sitting in one place, and the latter by a different tribunal sitting in another. The facts having to be tried by a jury, who are collected at some trouble and expense from different parts of the country, and who can only be held together for a limited period of time, it naturally became an object to reduce the issues to be tried to the narrowest possible point on which the parties could be content to fight the question. Juries also, being composed of men caught at random, and in whom the accomplishment of reading even was not considered a *sine quâ non*, it became further desirable not to complicate the record, or to bother their brains with more than a single question. Hence the various rules having these objects in view. But it is needless to observe on the total inapplicability of any one of them to a court which combines the provinces of judge and jury, to a court permanently fixed, which has no duties to call it away to private business at a distance, and which therefore may sit *de die in diem*, to dispose of every question that may fairly arise in the case, to a court finally composed of educated lawyers, who, it may be taken for granted, would not object to a party bringing forward his case in a double aspect, *i. e.* in two different forms, when such a course is legitimately founded on the facts. The application of special pleading to the trial of facts in this country, I believe, to be in its results as follows: that often the true point in dispute is not elicited at all; that often the law and the facts are so jumbled up together, that a hasty decision is called for from the judges on the former, and which, after being pronounced, it is too much to expect from the fallibility of human nature, can be easily made to appear wrong to the tribunal who pronounced it. Lastly, that when it does enable cases to be tried on the merits, it condemns the losing party to 1,200 rupees costs; and that even when he does not defend the action at all, it condemns him to 450.

23. I will dismiss this part of the subject, by observing, that an artificial system, like special pleading, when much cultivated by a learned profession, naturally grows up into a soil of science, to which the cultivators of it, both on the bench and at the bar, become attached in all its ramifications and subtleties, so that, in their anxiety to see the system logically carried out, they will be constantly found losing sight of and sacrificing the merits of the case to mere discussions on the forms.

24. The same remarks are almost equally applicable to pleadings in equity; but this natural tendency in the legal mind to aberrations from the main matter of judicial controversy, is peculiarly dangerous in India, when it is impossible that any member of the pro-

fession can attain the same technical dexterity in mere form work as is possessed by special practitioners in the particular calling at home. Every English lawyer in India has to learn the practice of at least one, and very often of three different courts, on his arrival in this country. The common lawyer knows nothing of equity practice, or of that of the spiritual courts. The equity lawyer knows nothing of the latter either, nor of the common law courts, civil or criminal, yet the common law and equity bars furnish exclusively both judges and advocates. It is dangerous, therefore, for such a bench and such a bar to allow themselves to be led into astute reasonings on what possibly may be the practice at home; and the desirableness of having a simple code of their own, so that all their faculties may be directed to the great principles of jurisprudence, becomes more than ever apparent.

25. The question then presents itself, as to what system can be suggested to replace the cumbrous one now existing in the Supreme Court, and which is here alleged to be so vexatious? It appears to me that there are two, both of which, in comparison with the existing system, stand highly recommended by principles of common sense, and by what is of more value in the eyes of many, common experience. The first is that adopted by the Supreme Court at Gibraltar, which, under the late charter of 1830, giving all judicial functions to the establishment there, and referring, like the Indian charter, to the existence of English law, have adopted one simple system of procedure on all sides of the court, ordering that on civil questions, whether legal or equitable, the proceedings shall be by petition, answer or demurrer, that the examination of all witnesses shall be *vivâ voce*, and that the law proceedings shall go on throughout the year, the terms including a space of eight months.

26. The second system capable of adoption has, by some, been termed the natural system. By it, the pleadings of the parties are, in the first instance, oral, and the task of reducing them to form belongs to the officer of the court. The parties themselves are present before the judge, and are amenable to examination at any stage of the inquiry. This system is, in some degree, the old practice of the common law courts in England, is mainly adopted in all courts erected for the poor who have no money to dispose of in fees, of many modern courts erected in the colonies, of which West Australia may be cited as an instance, and has been acted upon in the Small Cause Court at Bombay for upwards of forty years.

27. Between these two systems, the preference to be given to the latter is based on so many solid reasons, that I do not think they can stand in competition with one another for a moment.

28. The petition and answer system of Gibraltar has uniformity and simplicity to recommend it. Any one can draw a petition. No inveterate forms oppose themselves as obstacles to prevent the judge from finding his way to the facts in the case. Still, it must not be concealed, that this mode of procedure contains within itself all the inherent defects of special and equity pleading. The suitor's story is not told by himself, but by his legal adviser. Hence arises all that large expenditure which we have seen is created before the case is brought into court; an expenditure, in the great majority of cases (those where the defendant does not intend to contest the claim), altogether useless. Hence also arises the imperfect statement of the case, filtering, as it must do, through different channels and languages. Hence the delay and power of vexation which so temptingly offer themselves to defendants, by their ability to call in legal astuteness to assist them; and thus, without a perpetual watchfulness on the part of the judge, all the abuses might spring up which have been shown to occur in the existing systems.

29. On the other hand, none of these objections can be raised against oral pleadings, where the parties come into court in the first instance, and mutually state their case and defence under all the sanctions that publicity, mutual confrontation, and the presence of the judge can inspire.

30. This system was pursued by that very able judge, the late Sir Benjamin Malkin, at Singapore, as described by him in his letter on the Government Records (dated 16th September 1837), and has been already alluded to in some of the Reports of the Law Commission as desirable to introduce into the mofusil courts. The approximation towards it in the practice of the Small Cause Court at this Presidency, in the adoption of the two main features, examination of the parties, and references of all technical errors in the pleadings to the jeofail or error of the clerk, is so signal in reducing expenses, and bringing the facts of each case to light, that I have no hesitation in pronouncing it by far the most useful portion of the court; and, I believe I am corroborated in this view, by the opinions of the ablest judges who have sat here, as well as by the popularity with which it has always been regarded by the public.

31. As the elements of the suggested new procedure exist, therefore, at Bombay, nothing would be more easy than for the Legislative Council to bring all civil litigation within it. A few enactments, like the following, would, probably, be sufficient to launch the system:

1. All suits shall commence on the personal application of the party to the judge, on oath, if required, and a summons or *capias* shall thereupon issue.

2. On summons, &c. being served, the parties shall attend before the judge in open court, and if any matter shall appear to be in dispute, a day shall be fixed for the hearing, and the proceedings in the suit regulated.

3. All evidence shall be given *vivâ voce*, and the parties to the suit shall be examinable, on oath, at any stage of it; but, in certain cases, to be regulated by the judges, the presence of witnesses and parties may be dispensed with, and evidence may be received in a written form,

4. In



4. In every case the court shall decide on the principles of law or equity arising out of the facts, without reference to the form of suit.

5. All cases shall be decided on the merits, or adjourned till further facts can be procured to enable such decision.

32. I am unwilling to take up the time of the Law Commission, by extending this already long paper with details as to how this system could be made applicable to all the civil controversies which come before the Supreme Court, or by pointing out the rules which would have to be framed by the judges, so as to secure—

1. Authentic records of proceedings when necessary.

2. The safe conduct of causes which require length of time for investigation.

3. Application of the machinery of the court, so as to secure the interests of parties during the progress of the suit.

4. Arrangements by which the expense and dilatoriness of the Master's office may be avoided.

33. These important points require great length for discussion, and I only mention them here, to prevent the supposition that I have failed to consider them in recommending the above simple forms of procedure.

34. Having thus given my opinion as to what the practice of the court ought to be, I am now able, satisfactorily to myself, to answer the queries of the Law Commissioners. It will be seen that, according to the plan proposed, more work is thrown upon the judges than has hitherto fallen to their lot, and undoubtedly it enters into my scheme that one of the judges should sit at least four days a week throughout the year. But, as I have shown, that at present not one-third of the judge's time is occupied, and as I can safely say for myself, that a life of idleness in this country has no charms to recommend it, I do not anticipate any objections on this score.

35. These frequent judicial sittings, however, would dispense with a great portion of the work that is now done out of court by the Master, the prothonotary, the examiner and the clerk of the small causes. Whatever judicial business is done by these officers (and they all at present have some to perform) would be much better done, more cheaply done, and more satisfactorily done by the judges in open court; and what is done by these officers in mere routine business would be, for the most part, abrogated by the simple procedure proposed. I conceive therefore that these four different offices might be abolished, or rather coalesced into one.

36. The business of such an officer, who may be called a registrar, would chiefly consist in recording proceedings and in taxing the costs of parties. In court his business would be to attend all the sittings of the judge, to enter in a book the appearances of parties, and to fill up in printed forms their statements and answers, to swear witnesses, to take down evidence, when required, and to note the judgment of the court. Out of court his business would consist of little else than keeping his books in good order, in taxing the costs of parties and practitioners, and occasionally in hearing references from the court that might require privacy, or the leisure and quiet of a private room. I do not rate the attributes for such an office at any high standard; but I think a legal education would be a most desirable qualification, and that the rate of pay should range from 1,500 to 1,800 rupees a month. For such a salary, I conceive, that efficient services for the work required could be obtained.

37. But another standing officer connected with the courts in India is required, not so much for the sake of the court itself, as for the interests of the public which the Government have thought fit, by a very wise institution, to protect; I mean by the functions attributed to the ecclesiastical registrar of taking out administration to the estates of parties who may die in India without relations or friends.

38. The services required from this officer do not necessarily demand a legal education, and the holder of the office has frequently been a layman. But I think it very desirable, that both this office and the preceding one should be held by barristers, and that they should be held conjointly, like the masterships in the Court of Chancery and Queen's Bench, for the following reasons. The duties of an ecclesiastical registrar by no means take up the whole of his time, yet as he holds a very responsible post, demanding pecuniary security, it is expedient that the emoluments should be liberal, so as to secure trustworthiness. But as his time is not fully occupied, his post is one that may be well consolidated with some other. The registrar or master mentioned in para. 36, on the other hand, would have a greater portion of his time fully engaged, and as there is nothing disparate in the duties required from each officer, they might well be appointed as Masters or registrars generally, and arrange between themselves for the discharge of all the duties coming into the office.

39. This last suggestion seems to be corroborated by another view of the case. From the circumstances of this country where health so frequently fails, and change of air becomes necessary, it is certain that the holders of these two offices, however distinct they might be, would often be called upon to assist and act for one another mutually, but the disadvantages of having an acting officer in a post, who comes in merely as a volunteer and without even professing any knowledge of the duties, need not be enlarged upon. On the other hand, if the two offices are consolidated, a degree of responsibility is ensured from both, and also something of emulation to obtain credit in the profession and from the public for an able discharge of duties, which, as may be seen in the case of the Masters in Chancery, is by no means a motive to action to be undervalued.

40. The appointment of two such officers would enable the following offices to be abolished, now held by four gentlemen.



No. 1.  
On Civil Judica-  
ture in the  
Presidency Towns.

1. Master in Equity.
2. Prothonotary, and Equity and Admiralty Registrar, and Examiner in Insolvent Court.
3. Clerk of the Small Causes.
4. Ecclesiastical Registrar and Examiner in Equity.

41. Another officer is still required by the court to discharge the functions now performed by the clerk of the Crown, the clerk to the Insolvent Court, and the pauper's attorney, and as these offices are all filled by gentlemen in practice, I think that they may be consolidated into one office, which it might be made worth a practitioner's while to accept on giving up any extraneous practice. The work in each of the offices mentioned is appropriately attorney's work; for although the clerkship of the Crown has been usually filled by a barrister at Bombay, it is generally held by an attorney at home; and I think that an able man from that branch of the profession is better adapted to the office. The office might be termed the clerkship of the court, and I do not think that an efficient occupant of it could be ensured under 1,500 rupees per month.

42. The establishment of the court, therefore, according to the plan proposed, would stand thus:—

Two masters or registrars at 1,800 rupees each	-	-	-	-	3,600
Clerk of the court	-	-	-	-	1,500
					<u>Rs. 5,100</u>
Amounting per annum to	-	-	-	-	Rs. 61,200
To which has to be added for the sheriff's salary	-	-	-	-	4,200
					<u>Rs. 65,400</u>
TOTAL	-	-	-	-	<u>Rs. 65,400</u>

43. But as the present salaries payable by Government to the officers of the court only amount to 36,840 rupees, if this long paper is to end by a recommendation of further drains on the treasury in support of the court, I fear that it would meet with but little favour, and it is necessary for me to show that direct advantages would accrue to Government from its adoption, as well as the indirect ones which they would experience in the lessened charges to the public on law proceedings and litigation.

44. It will be seen that the fees payable to the officers of the court amount at present to 84,143 rupees, but this item is probably insignificant when compared with the costs paid by suitors to their attorneys for useless procedure; the greater portion of these amounts will be saved by the plan suggested, and on a comparison with the costs of suing by a simple method, such as is used in the Small Cause Court, I conceive that the expenses of litigation will be reduced to one-tenth of the present amount.

45. But although this great benefit to suitors seems attainable, there seems no reason whatever why a portion of the expenses of the court should not be thrown upon them. In countries like England, when the taxation is ramified so as to reach every individual, the support of judicial establishments is the service rendered by Government as the equivalent *quid pro quo*. But, in Bombay, the mass of the population is scarcely taxed at all, a money-making, money-saving community, but, unconnected with land, they can scarcely allege that a single pie of theirs finds its way into the Government coffers. In all fairness, therefore, an amount may be levied from suitors as for the article law, as much as for any other article of which they might stand in need. But a fee of only 10 rupees each on the institution of a suit, would, on the number of causes entered last year, produce 14,400 rupees, and the fee might be raised to 50 rupees without its burden being sensibly felt.

46. In addition to such fund as a means of supporting the court, there would have to be added the commission now levied on the estates of deceased parties, and which finds its way into the pockets of the ecclesiastical registrar and private administrators. If the latter officer is to be paid by Government, such commission would of course be rightly payable to the Government treasury; and if all private commission as now allowed were abolished, I am convinced that the total amount now received by the registrar would accrue to the Government chest, even if the commission were reduced by one-half.

47. The funds applicable to the court would stand thus: therefore,

Salaries now payable	-	-	-	-	-	-	Rs. 36,840
Institution fee on suits	-	-	-	-	-	-	14,400
Commission on estates of deceased parties	-	-	-	-	-	-	18,957
							<u>Rs. 70,197</u>
Salaries proposed to be paid	-	-	-	-	-	-	65,400
Balance in favour of Government	-	-	-	-	-	-	<u>Rs. 4,797</u>

48. Whilst upon this subject, I would venture to suggest, that there is another fund which appears to me to be largely applicable to the maintenance of the court, I mean the unclaimed estates, to the amount of eight lacs of rupees, in the hands of the ecclesiastical registrar.

A great

A great portion of this fund is of long standing, and may with certainty be predicated as never likely to find a claimant. An Act of the Government, dedicating the interest on the fund to the support of that court which has created and preserved it, seems to be founded on the clearest principles of justice and expedience.

49. I cannot close this long paper without first of all apologizing for the great extent to which it has run, and, secondly, a frank disclosure of the feelings with which I have gone into the inquiry. I beg to assure the Commission then, that I have looked at the question proposed without any reference to the existing interests of the judges, or of the present officers of the court. The former are not indeed likely to be affected by any change, except so far as a little additional work may be thrown upon them, but the latter stand in a different position, I have therefore treated the question unreservedly, and entirely as *res integra*, but I have done so under the firm conviction, that in any change to be made, existing interests will be fully protected by the justice of the Government of the present day. On this point, and on such an inquiry, the duties of the judge are so well and so feelingly expressed by Lord Stowell, that I make no apology for transcribing the passage, which I have had in my mind throughout the whole discussion.

"I trust I need not profess to bring to this discussion at least the dispositions which ought to meet it, an anxiety to attend, on the one hand, to those considerations of public utility, in which the real honour of the court is so deeply involved (for it can have no honour independent of its subservience to public utility); and, on the other hand, to those sentiments of a liberal and even kind justice, which it is bound to feel towards those immediately employed in exercising its functions. It would be a gross dishonesty to lose sight of the public utility from an undue partiality to individuals; but it would be a dishonesty not less base, nor less detestable in the motive, to sacrifice rights which the court is bound to protect, to any pursuit of an unjust, and, therefore, transient popularity."\*

Bombay, 3 June 1843.

(signed) E. Perry.

To the Honourable C. H. Cameron, Esq., and the Members of the Law Commission,  
&c. &c. &c.

Honourable Sirs,

Bombay, 4 August 1843.

I REGRET that ill health and an unusual pressure of business have delayed my reply to your letter respecting the officers of the Supreme Court at Bombay, their fees and emoluments. Sir Erskine Perry, however, has already sent to you an abstract, briefly showing the average annual amount of emoluments received by each officer of the court. We think you should also be furnished with the returns from which that abstract was made out, and accordingly I have the honour to forward them, together with the "contrasted statement of fees" which we received from you, and which has been filled up by the officers of the court here in the manner you requested.

It will be observed, that there are many fees receivable at Calcutta which have no existence at Bombay. In some instances the fees charged at Bombay are higher than at Calcutta, but such fees appear in general to relate to services which, at Bombay, are seldom called for, and considering that the folio at Calcutta contains but 72 words, whilst at Bombay it contains 90 words, it appears to me that, on the whole, the fees at Bombay are much lower than those at Calcutta. In the few instances in which fees of officers of court for particular services are higher at Bombay than at Calcutta, the fees established at the former place may well be reduced. The fees of attornies at Bombay, it seems to me, are in some respects too high, and it is not improbable that Sir Erskine Perry and I may cause them to be reduced without delay.

I am not aware how any consolidation of offices can be effected. Giving a plurality of appointments to one individual can scarcely be called consolidation. Such a measure is sometimes expedient, in order to remunerate a party for devoting his services exclusively to offices in the court; and occasionally two or more appointments are given to one person, or after having been held conjointly, are again severed, with a view to suit the abilities of individuals, and otherwise to promote the public service. Perhaps, by giving the custody of the seal to the prothonotary or some other officer, a reduction in the sealer's fees might be attainable.

Sir Erskine Perry and I perfectly concur in the opinions expressed in his letter to you of the 29th of June, respecting the office of sheriff. I would add, however, that although the high sheriff in this country appears to me to be almost wholly useless, the services rendered by the petty sheriff are obviously indispensable. They could not be obtained from the description of person generally appointed to be high sheriff, but might well be discharged by a person of the same rank in life as that from which the deputy sheriff is usually selected, and such officer might be denominated the sheriff.

I would gladly agree with Sir Erskine Perry in all the particulars contained in the minute which accompanied his letter of the 29th of June, and am fully convinced that the expense of litigation is very great, and ought to be diminished. That expense, Sir Erskine Perry thinks, has occasioned a decrease of business in the Supreme Court, whilst the amount of business in the courts of the East India Company has increased. The supposed decrease of business in the Supreme Court is scarcely established by the schedule of cases heard and actions tried during the years 1840, 1841 and 1842, transmitted to you along with

Legis. Cons.  
11 May 1844.  
No. 8.

\* Case of Rendsberg, 6 Rob. Adm. Rep. 145.

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with the minute, for according to such schedule the amount of business in the last-mentioned year exceeded the amount of business in either of two preceding years; and it may be added, that during the two terms which have already occurred in the present year, 34 actions have been tried.

I cannot assent to the commonly received doctrine, that the natives of India are of a more litigious character than the rest of mankind, and I believe they are not more litigious than the Irish or Welsh. Where the administration of justice is comparatively certain and equitable, rights will be resisted or withheld less frequently than under a more imperfect judicial system, and thus, without having recourse to the difference of expense attendant on litigation in the respective courts, I can well understand why there should be comparatively less business in the Supreme Court than in the courts of the East India Company, if such be indeed the case, and why there should be more litigation in India than in England. My own conviction is, that there is now nearly as much business in the Supreme Court at Bombay, as there has been at any time during the last ten years, and the opinion is upheld by the annexed Schedules, marked (A.) and (B.) which I have received from the prothonotary of the court.

From the records of the court and other documents it may be collected, that on the arrival of Sir Edward West in this country, and at the establishment of the Supreme Court at Bombay, an arrear of supposed wrongs and abuses was brought forward, and in his efforts to right the former and correct the latter, Sir Edward West raised, as was to be expected, a hornet's nest, and his own feelings and those of other judges in turn became excited. The court took cognizance of one or two matters respecting which it had no jurisdiction; but between suits in which the Government was interested, and suits amongst private individuals, the business of the court has never been so great as it was from the time when the court was first established up to the year 1825. And yet at no period was the cost of litigation so great as during that abundance of business. There were then only three or four barristers, and the number of attorneys was likewise much too small. The bar thus had a monopoly; every member of it had employment, and I have been assured, and believe, that immediate fees, if not exacted, were necessarily given. At the same time, as the records of the court show, amendments, applications for time, insufficient answers, exceptions and other dilatory and expensive proceedings were multiplied, and the cost of litigation proportionally enhanced. At length a greater number of barristers obtained licenses to practise. There was a struggle for subsistence. The rate of fees fell considerably, and, to the advantage of clients, professional jealousy arose. Thus the expense of litigation was decreased, and yet the amount of business was diminished. This may be accounted for by considering that much of the original arrears may by that time have been disposed of; that the Insolvent Act came into force; that Sir John Grant had for a period shut up the court, and that it was reopened under peculiar circumstances; and latterly, the stagnation in the China trade, and in mercantile affairs in general, must have had considerable effect. Still, as already observed, I believe there is now nearly or quite as much business in the Supreme Court as there has been on an average during the last ten years; and disputes between petty traders and money lenders on a small scale, are, or ought to be, disposed of in that branch of the Supreme Court called the small cause court, and in the court of requests.

But the expense of proceedings in the Supreme Court, properly so called, is great, and should, as far as is practicable, be diminished. The cost of litigation in a great measure arises from its being for the interest of professional men to protract the pleadings, and to multiply incidental proceedings. I have often thought this evil might, in some degree, be remedied by entrusting the framing of pleadings to an officer of the court. Such is the practice, though, in my opinion, very imperfect, in the small cause court at Bombay, but the system might be considerably improved.

It might be advisable to give to parties the option of preparing their own pleadings, providing, perhaps, that no greater costs should thence accrue between party and party than if the pleadings had been framed by the officer, and that professional men should be paid, not in proportion to the seeming work and labour done, or the length and number of the pleadings, but by a fixed sum for each stage of the business. Special pleading, so far as its abuses are concerned, might be discarded, but retained so far as it is essential to conducting logically the altercations of the parties. It seems to me that thus far special pleading is as much suited to this as to any other country; that thus far the rules of pleading are merely conformable to the operations of the mind in the logical management of a dispute, and that, by following any effectual rules for that purpose, law and fact would be necessarily evolved and separated. Unless where the pleadings were very special and unusual, it should be unnecessary for the officer to do more than make a minute or entry in the terms of the marginal notes annexed to pleadings in the books now in the hands of the profession. At present, even on a trial for murder, the officer enters the plea and replication by the mere words "Non cul.," "Culprit." Such notes or minutes might afterwards be expanded into the formal pleading at full length if necessary, though it appears to me that such formality should seldom be required, and that even in making up the record, a brief statement of the declaration, bill or libel, concluding with a taliter processum fuit, and the judgment, should in most cases be sufficient.

I greatly doubt whether a judge should be permitted to interfere in the conduct of the suit before it becomes ripe for trial or hearing, otherwise or with any further or other intent than his interposition is at present allowed. Any more extensive interference on his part might tend to bias his mind in an early stage of the suit. Were he to preside at the oral wranglings of the parties, and to superintend the making entries or minutes accordingly by way

way of pleadings, his authoritative position would indeed invest him with coercive power; but through excess of zeal or infirmity of temper, when provoked by tricks and stratagems of suitors, he might have recourse to measures of a severe character, or admissions might in effect be extorted. Any impatience or indolence on his part might also produce much mischief. With respect to all such matters he might exercise due restraint over another, a subordinate officer, more easily than over himself; and a professional officer of the court, possessing ordinary skill and experience, could hardly fail to conduct the allegations, pleadings and other interlocutory proceedings in an efficient manner, especially as he would be subjected to superintendence and control,—important checks, from which the judge in this country would be comparatively or wholly free.

Measures for similar objects, adapted to the conduct of suits in equity, or respecting matters of ecclesiastical or admiralty jurisdiction, might be devised. The interrogating part of the bill might be omitted in the first instance; and if the defendant's answer were to be taken by an officer of the court (the defendant not availing himself of an option to put in his answer by the aid of solicitor and counsel, as under the present system), the officer might orally interrogate the defendant, consistently with the scope and spirit of the bill, and the replies being committed to writing would form the answer. Omissions or defects might be supplied by additions to or amendments of the bill, and by interrogatories, oral or otherwise.

It seems to me that witnesses in suits in equity should be examined orally in court, as in a trial at law. I am aware, however, that opinions of great weight are to the contrary.

Where, in an action at law, a point in equity arises upon the pleadings or evidence, without any surprise to either of the parties, it appears obvious that the court should be empowered to decide it at once.

The above are some of the speculative notions I have at different times entertained upon these subjects. I only enter upon or allude to them now, because these topics have been fully dwelt upon in the copious and able minute of Sir Erskine Perry, and were I wholly silent regarding them, it might appear that he and I differ more widely than is really the case. If it should be intended to effect any radical change in the mode of administering justice in the Supreme Courts in India, it may be expedient to consider such matters more fully, and to enter into details suitable to a new system. At present I am not aware that any such complete innovation is contemplated; and as some persons might consider sweeping alterations of the long established practice in the Supreme Courts equivalent to an abolition of such practice, and as amounting in spirit to a partial abolition of those courts, and to the establishment of new tribunals, it may be doubted whether the Legislative Council can be competent to effect such alterations under 3 & 4 Will. 4, c. 85, ss. 43 and 46, without the sanction of the authorities in England.

The result of such measures as Sir Erskine Perry advocates, and as I have alluded to in this letter, would be, I fear, the annihilation of the bar at each Presidency. At all events, counsel would seldom be employed in any case. Consequently, judges might become arbitrary, and by degrees, perhaps, professionally ignorant; and the due administration of justice would depend much more than even at present is the case in this country, upon the personal characters of those placed upon the bench.

I have, &c.  
(signed) *H. Roper.*

To the Honourable *C. H. Cameron*, Honourable *F. Millett*, Honourable *D. Elliott*, and Honourable *H. Borradaile*, Esqrs., Law Commissioners.

Honourable Sirs,

WE have the honour to state, in answer to your letter addressed to us, No. 13, of the 27th May 1843, that our opinions on the consolidation of offices in the Supreme Court at this Presidency, and the amount of salaries, are contained in the minute of the Chief Justice, which is annexed to this letter, and that his minute may be considered as embodying the opinions of the judges of this Presidency upon the changes which it would be desirable to introduce in the administration of justice here, which on the equity, ecclesiastical and admiralty sides admits, we think, of great improvement, and is also susceptible of improvement on the plea or common law side. The consideration of these subjects appeared to us to be so intimately connected with the proposed revision of the establishment of the courts, that we need offer no apology for entering upon it in our answer to the letter which you did us the honour to address us. We regret that the absence of the Chief Justice in the spring and summer of last year, and the subsequent pressure of business in the court, have delayed for so long a time our reply to your communication.

We have, &c.  
(signed) *Lawrence Peel.*  
*J. P. Grant.*  
*H. W. Seton.*

Court House,  
13 February 1844.

MINUTE of the Chief Justice.

THE amount of the emoluments of the principal officers of the court has been fixed with reference to the emoluments derived from practice at the bar here, which are much higher than at the other Presidencies. A barrister in the Supreme Court here, who has made any advance in his profession, naturally looks to the receipt of a large professional income at an early period. It has been thought of late years by the judges to be desirable, if not essential to the due administration of justice, to obtain in the two principal offices of the court as at present constituted, viz. those of Master in Equity and Registrar, the assistance of gentlemen of the bar in practice, and the salaries and emoluments of these higher officers were fixed in the scheme contained in the letter of the 14th September 1842, from the judges of the Supreme Court at this Presidency to the honourable the President of the Council of India in Council, on a liberal though a reduced scale, proportionate to the emoluments of practising barristers in the court. The emoluments of one of these officers, the registrar, are now wholly derived from his commission as administrator of intestate estates, for which, as it has been before noticed in the judges' letter, the court was not at any time responsible. These are not a burthen on the estate, and the charge on the parties interested is precisely the same as that which falls upon them under non-official administrations. It is, however, desirable, in my opinion, to lessen this charge in both classes of administrations. Upon the present plan of administering equity, the Master is in some mode a judge, and his office is one at once of great importance and of some dignity. If a vacancy occurred in my time whilst this office was on its present footing, I should be very desirous of selecting for it amongst the barristers in practice, the best qualified for such an office of those who would consent to take it. It was with this feeling that a salary so high as 4,000 Company's rupees per month was named in the scheme in conjunction with that office. But it is to be observed, that that was meant as the maximum which the judges should be empowered to offer, and that it would be their duty to propose a smaller salary, if the smaller salary would secure the services of a barrister in practice well qualified for the office. Upon reconsideration of this subject, I am disposed to think that a salary somewhat less than the one proposed in the scheme referred to would enable the court to secure the services of one so qualified. It is difficult to say beforehand what salary would suffice; but I think that a salary of 3,500 Company's rupees per month, or perhaps 3,000, would be sufficient to induce the relinquishment, not of the first practice, but of a moderate practice at the bar. In the scheme before referred to, the union of the taxing office with that of Master was proposed. The judges were not at that time apprized of the objections to this union which were entertained by the profession. The taxation of costs, if delayed by the Master's attention to the proper duties of the Master's office, which would frequently happen, would delay the issuing of execution, to the serious injury of the suitor; and, therefore, this particular change was considered by the judges as not desirable to be adopted. On the death of Mr. Vaughan, the late taxing officer, the judges, with a view to accelerate the abolition of the office of sworn clerk, would have urged Mr. O'Dowda to accept the offices vacant by Mr. Vaughan's death, but for the objection that the appointment of Mr. O'Dowda would have excluded the attornies wholly from the offices of the court. The judges were reluctant to establish such a precedent; and the Chief Justice waited upon the honourable the President of the Council for the purpose of laying before the Government the alteration in their views, and, in a personal communication with him, stated the course which the judges were desirous of pursuing, and informed him of the reasons by which they were influenced. The President of the Council suggested, that the gentleman to be appointed Mr. Vaughan's successor in the taxing office, should be informed that his office was to be held subject to any arrangements that might be effected for consolidating offices and reducing the establishment of the court, and that proposal was acquiesced in; and Mr. Ryan, who being properly qualified for the office, was selected for it amongst the attorneys of the court, in consequence of his loss of the office of sealer, which was abolished on Sir Edward Ryan's resignation of the office of Chief Justice, accepted the office on this distinct understanding. The reduction effected upon his appointment was to the extent of 9,000 Company's rupees per annum. This is the only instance in which any vacancy has occurred since the date of the letter of September 1842, and although the judges then effected a less reduction than they had hoped to do when they addressed that letter to the Government, it must not thence be inferred, that their desire to effect all practicable reductions of the cost of the establishment at the earliest period, has suffered any abatement. The judges have made no further effort to reduce the fees of court, in consequence of the letter referred to not having been replied to by the Government. They are not officially acquainted with the views of the Government relative to the proposal that the Government should permit the reduction of some part of the fees of court of which the Government are now the recipients.

Having given this answer to the general inquiries contained in the letter of the Law Commissioners concerning the further reductions, or steps to further reductions, effected or taken since the date of the letter of September 1842, I proceed to consider some of the proposals in that letter as to changes in the establishment of the court.

I am not sufficiently acquainted with the mode of transacting business in the office of the Accountant-general of the East India Company, to form any opinion whether inconvenience would result here from adopting the practice prevalent at Madras and Bombay. The amount of business in the Supreme Courts at those Presidencies, and the amount of monies in the hands of the accountants-general of those courts is, I believe, considerably less than  
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in the Supreme Court of this Presidency. The double machinery now in use seems to be objectionable. The court must have an accountant: the Accountant-general of the Company, if he were the accountant of the court, would be subject to the general jurisdiction of the court over him as its officer. This might be deemed inconvenient. It has been suggested by the Master of our court, that the simplest course would be to retain the office of accountant on its present footing, and to make the Bank of Bengal the bank of the court, in like manner as the Bank of England is the bank of the Court of Chancery. Upon this subject, I expect to receive shortly a report of the Master, which shall be forwarded to you as soon as it reaches me. I think there is no necessity for retaining the offices both of sheriff and deputy sheriff, and that the sheriff's office should be filled by a permanent officer. That officer, though subject to the court, is not, strictly speaking, an officer of the court; and I know not to what office of the court the duties of the sheriff could be assigned. I see no reason why the office of sheriff should not be united to that of coroner. The present coroner is not a lawyer by profession, but he is not by any means uninformed on the subject of law; and I had lately submitted to me some observations of his on his own court, and its legal functions, which showed that he had mastered that branch of the law; and I have no doubt that a person of his intelligence and habits of study would readily qualify himself to discharge the duties of sheriff. In general, however, I think it would be preferable to select a lawyer for the office. If this arrangement took effect, I think that all process out of all courts within the local jurisdiction should be executed under one and the same officer, and issue from one and the same office. Fewer abuses would prevail, and it would be the cheapest mode of executing process. The charges of the office would, probably, be covered by a moderate poundage or fees.

It is necessary that I should preface my plan of reduction, as contained in this letter, by a few remarks on establishments of officers in courts, when confined to their proper functions, and on the union of judicial functions, or of functions the exercise of which has no necessary connection with a court, with the proper functions of such officers. The establishment needed for a court is that of officers having duties of a ministerial character to discharge in the various stages of a suit, as issuing the first process, seeing that it is in the legal form, and has the proper vouchers of its genuineness, and issues under the prescribed checks against abuse, recording its return, filing the proceedings as they go on, attending at the hearing or trial, taking the evidence when essential, entering in proper form the proceedings of the court, taking accounts and conducting inquiries of a protracted nature, which would otherwise unnecessarily occupy the time of the court; and, if taken in court, would materially enhance the expenses of a suit. When the forms of courts are simple, these duties require no great degree of professional learning. Where duties of a judicial or quasi judicial character are assigned to such officers, it is a defect in the system of administration of justice, which is generally owing to the necessity of some such delegation, in consequence of the pressure of business in courts. It seems to me that some of the matters usually referred to the Master might either be decided in court without a reference, or be decided by one of its own members sitting as a judge in chambers. It would make this minute of undue length, if I were now to go into details. I have, however, annexed to this minute some observations on the general improvements of the judicial system here which will serve to illustrate my plan. Next, as to the delegation to the officers of the court of duties not necessarily connected with a court. Of this kind in our court are, first, the official administration of the estates of intestates conferred by command of the Legislature of Great Britain on an officer of the court, the ecclesiastical registrar. Next, the receivership, which commonly falls on an officer of the court by the consent of the parties in a suit; but it is not of compulsory obligation on the parties to select an officer of the court for such purpose; and, lastly, the official trusteeship lately created by an Act of the Indian Legislature. All the duties of these various officers are those of ordinary administrators, ordinary receivers and ordinary trustees, and they have no necessary reference to any suit whatever. In my opinion, it would be the better course to retain the offices, but to disconnect the person discharging them from the court, and to transfer the appointment of him to the Government, and to confine the court establishment to the officers really necessary for the discharge of the ministerial duties before mentioned. I think it is of importance that no offices should exist as connected with the court which are of an administrative character, and have no necessary connection with proceedings in court. It creates false impressions, that officers are superintended in the discharge of such duties by the court, when they are not, and cannot, from the very nature of the case, be so superintended. Should breaches of trust or duty arise in the discharge of such administrative duties, censure would fall upon the court for that which it could not by any vigilance prevent; and, in short, in cases where the court could not judicially interfere, even if it had knowledge of errors committed in the discharge of such duties. I proceed now to state my views as to the establishment of the court, on the assumption that a uniform and simple form of procedure were adopted in the Supreme Court on its Plea, Ecclesiastical and Admiralty sides, and that the business on the Equity side were conducted upon the principles contained in this minute, and in the accompanying observations on the general reformation of the system of equity as here administered.

The office of Master could not be abolished, but its duties would be reduced in importance and difficulty. The Master would have leisure for other duties, and, I think, the best course to adopt would be to assign duties which would interfere as little as possible with his attendance on inquiries in his own office. This officer then would be Master, Accountant and Equity Registrar, executing also the duties now performed by the sworn clerk and



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ecclesiastical and admiralty registrars, at a salary of 3,000 Company's rupees per month, or thereabouts.

The Prothonotary to be also Clerk of the Papers, Clerk of the Crown,  
Sealer and Keeper of Records - - - - - 2,000 per month.  
Taxing Officer, Chief Clerk and sole officer of Insolvent Court, and  
to be also Attorney for Paupers (this office should be filled always  
by an attorney) salary - - - - - Company's rupees 1,800 per month.

It is possible that some other union than that suggested here might be found more convenient; but, I think, that all the necessary duties of the court, on all its sides, and of the Insolvent Court, may be done by three principal officers, but not by less. The minor establishments of clerks to the judges, interpreters and swearing officers do not, I think, admit of reduction, except that, I think, the salaries of the judges' clerks might be reduced to 500 Company's rupees per month on future vacancies.

The duties of an official administrator are arduous, and it is an office of considerable pecuniary responsibility. Such an officer should either be a lawyer, or he should have ready access to professional advice; the administration of one estate, or of a few, may be conducted, possibly, without a resort to legal aid; but in a multitude of such administrations, a multitude of difficult and embarrassing questions will arise. The charge of the office is properly imposed on the estate, and the extent of it must, of course, be measured by the difficulties and responsibilities of the office. In many countries, the state, by some officer or officers, administers the estates of intestates. If it be deemed preferable that the official administration of assets, the receivership and the official trusteeship, should remain connected with the court, it would be necessary to have one more officer than those named; but as his emoluments would be wholly derived from commissions, the charge to the state would be the same as in the plan now proposed by me, but a reduction of commissions might take place to some extent. The result, in round numbers, of the reductions thus proposed, would be about 60,000 Company's rupees per annum in salaries; and by a lower commission, in the case of the administration of assets, the emoluments of that officer might be reduced, probably, to the extent of 20,000 Company's rupees per annum; but the benefit of this reduction would accrue to the parties whose estates are under the official administration.

The Judges, Sir Edward Ryan, Sir John Peter Grant and Sir Benjamin Malkin, fixed upon four officers in their plan of the final arrangement of the principal offices of the court, as the smallest number consistently with the efficiency of the court on its present system of judicature. By disannexing the official administration, trusteeship and receivership from the court, I think three principal officers would suffice, but not fewer under any system which I consider practicable. I have read Sir Erskine Perry's plan attentively, with a view to the rectification of my own views if erroneous. That plan proceeds upon the supposition, that the judges at Bombay have not more than one-third of their time occupied. This may be the case at Bombay, but here it is not the case. At Calcutta, the terms are four of 28 days each, the sittings four of 14 days each at least, the criminal sessions out of term are three of usually about 10 days each; it frequently happens here that the term business is not concluded within the term, and that the sittings are not sufficient for the despatch of causes set down; in that case the sittings are prolonged, and arguments are taken out of term, and it must be remembered, that there are sittings in chambers out of term throughout the year, twice a week; in addition, there is the work in chambers in preparing judgments, and considering questions that have occupied the attention of the court in term. I am as little favourable to a life of idleness any where as any one can be; the weak state of my health unfortunately sometimes disables me from attending to my business, but unless when attacked and disabled by illness, I give at present every portion of my time to the duties of my office.

The judges have frequently matters referred to them by the Government, who do them the honour to take their opinions on legislative changes, and the Law Commissioners communicate with them on such questions. The judges, as in duty bound, give their first attention to the business of the court, and it too frequently happens that they are forced to delay answering the communications made to them in consequence of the pressure of business. Any plan that assumes that the judges here have time to transact any portion of the duties performed by the officers of the court, except the judicial duties of the Master, which would not, when rightly managed and coming on in the course of the suit, take up much more of their time than is given to the suit at present, would fail in its operation. It is always to be lamented when a judge is forced to give his whole time to sitting in court. It is his duty to render himself as well qualified for the discharge of his duties as his powers will permit; it is his duty to perfect himself in knowledge as far as he can. The eminent men who are appointed to fill the highest judicial offices at home, frequently regret their want of time to keep up their reading. How much more necessity is there here for some continuation of studies, when it is considered that the judges here have to administer ecclesiastical, admiralty, equity and common law, and the law of the Mahomedans and Hindoos, a more extensive range of jurisdiction than falls to any one court in England, except the courts of appellate jurisdiction perhaps, and that they are not, and cannot be selected from the highest ranks in the profession. For my own part, I regret that I have not more time for reading; I am in the habit of reading all the reports of all the courts in England, but I am unable to keep pace with the publication of them. When the judges of this court were applied to, to take part in the decisions of the small cause court, they readily consented, and expressed

expressed no other fear than that they should not have time to despatch that portion of the business which it was desirable that a professional man should despatch. In the vacation, the time of one of the judges they thought might be constantly given, in term and sittings they thought it would rarely be practicable, and this is still my settled opinion.

To work efficiently the plan suggested by Sir Erskine Perry, a judge should be a man of the very highest powers, and possess a very rare union of good qualities. This is essential, but even this would not ensure its success. It gives the judge a degree of power which I think no judge ought to possess: even the power of saying whether a suit shall be instituted in the first instance or not, since he is to say "whether any matter appears to be in dispute;" and unless a judge were of the highest order of merit, the greatest errors would prevail in the administration of justice. The proposal, that "in every case the judge should decide on the principles of law or equity arising out of facts, without reference to the form of suit," however specious and captivating, would often be found to work great injustice. He must be quite certain that he has all the facts before him, otherwise he would administer equity blindly and often erroneously; facts not before him would probably show that his decision was partial and unjust. The party would come to meet one demand, and the decision would go against him because he had not prepared himself for a case not made known to him; but if to avoid these evils, the cause be adjourned for the purpose of trying in fact a new cause, little is gained, perhaps nothing, and the natural consequence of the adoption of the principle recommended, which has been often recommended, and as often upon consideration rejected, would be uncertainty in the law, and a multiplication of suits. Having practised at the bar here, and having had a large share of chamber practice, I know how often causes are kept out of court by the opinions of counsel; and it is often lost sight of in considering the advantage of an efficient bar in the administration of justice, that a great deal of litigation is checked by the opinions of counsel which would otherwise flow in upon a court. The consequence of mixing systems of law and equity, of allowing a suit to be decided on notions of natural justice or equity, and not upon the adopted system of municipal law, of delegating large and discretionary powers to judges, and of suffering a suit to be brought in one form, and with one aspect and object, and a decree to pass in it upon some other state of facts, or on the same facts, but to a different end, would be to introduce great uncertainty, and to increase litigation, and it would be particularly objectionable in a place like Calcutta, a commercial community, with ramified interests closely connected with the maritime and commercial interests of England, and between which it has hitherto been the policy and object of the Government to keep to as close a similarity of laws as the different state of circumstances admits of. The system proposed by Sir Erskine Perry would work a sudden and violent change. It does not admit of gradual introduction. Surely the preferable course, especially in a country like India, is to proceed by steps, retaining as far as it can be done established systems, purging them of their defects, and establishing on existing foundations a reasonable and cheap and effective system, which may be worked by men, such as they are, and which does not depend for its successful working on the union of qualities and powers which are rarely found united.

Sir Erskine Perry proposes, that in the first stage of a suit the party bringing it should appear before the judge. This could not be done in a multitude of cases where the parties bringing the suit were not within the local jurisdiction of the court, and in many where it could be done it would be most inconvenient. If it should be said they may appear by deputy, by agent or attorney, it should be remembered that the agent or attorney is often but imperfectly acquainted, at the institution of the suit, with the facts of it. He is often wholly unacquainted with the grounds of defence even in an after stage of the suit, and the principals, some inadvertently, and some by design, conceal material facts from the knowledge of the attorney or agent. It may be requisite to file a plaint against a party at a time when it may be impossible to obtain a full knowledge of the case even of the plaintiff, still less of that of the parties sued. To require the appearance, therefore, of the plaintiff or his agent before the judge at this early stage of the cause for the purpose of settling the suit, would be in general ineffectual. If the appearance be merely to enable the judge, acting as officer of the court, to act the part of professional adviser, and to record the proceedings in a technical or legal form, for some such form there must be, though of a simple character, it must be remembered that the judge will then become mixed up with the party at an early stage of the suit; may mistake the statements of the party, or form an erroneous opinion of their legal bearing, he may content himself with such statement as the party gives, and take no steps to elicit a further statement; if he do more than this, he must sift and put searching questions, and either excite the jealousy and dislike of the suitor in that early stage, or inspire an equally unfortunate feeling, the feeling that the judge is his friend, and has formed a favourable opinion of his case, and thus raise the suspicion and jealousy of the opponent. The case will either be prejudged in the mind of the judge, or will be thought to be so. The system is to be applied not to simple demands of small amount; but to every case of complexity and difficulty which may be brought before a court. What judge can possibly be expected in such a case to form at once a tolerably correct judgment of the parties to be brought before the court, and of the mode most favourable to the suitor in prosecuting his case; this is the business of the professional adviser, and requires care and frequent conferences with the client, and is the subject of anxious consideration. Every failure will be imputed to the judge, and every suitor who brings a demand and fails, will turn upon his judge and say, "You misunderstood me; you did not frame my case as it should have been framed; my case was never properly brought before the tribunal, and it ought to be heard



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anew." A timid judge will yield to the demand; and if he have courage to refuse, it will be said he has denied justice to cover his own blunders.

Where an officer is interposed between the judge and the party, these mischiefs to a great degree are averted. There is no system so good as that which enables a party who imagines he has a well founded claim, to prefer it without the previous sanction of a court, selecting his own professional adviser, in whom he has confidence, and to whom he may make disclosures he would be slow to make to an officer of the court or a judge, which enables him to select an advocate of integrity and skill; and no judgments are so likely to be correct as those which are formed upon reflection after the case has been fully argued.

In the administration of justice, freedom from every restraint not imposed by the law, is as necessary to the suitor and to his advisers as to the judge.

It is on this principle that privileges are allowed to the advocate which would otherwise be inadmissible.

It applies to the suitor not only in the choice of his advisers, but in the mode of prosecuting his suit.

Any interference of the court in these matters would destroy all confidence in it.

If the power of assigning an advocate to the party by the judge, not only without but against his request, would create suspicion, what would be the effect of assigning his attorney? of his becoming the attorney himself? of his calling for disclosures that the suitor was unwilling to make, and rejecting those upon which he relied?

Could it have any other effect than to throw upon the judge all the accumulated responsibilities of the professional character in all its grades, with all the invidiousness which is attached to each?

Ignorant parties in all countries, and in none more commonly than in this, are prone to attribute the failure of their suits to the treachery of their professional advisers.

Their council is in the opposite interest. Their attorney has received a bribe.

The complaints of the corruption and partiality of the arbitrators, from their being brought into more immediate contact with the parties, though judges of their own choosing, is proverbial.

Similar charges and suspicions would be heaped upon the judge, who would have nothing to oppose to them.

He would thus be deprived of all respect and authority beyond what the process of his court could command.

Such a system could only be tolerated in an infant community, and not in one like this, allied in all its interests with one in the highest state of civilization.

It is only by the conflict of independent views before an independent tribunal, that truth or justice can be elicited.

It is only by an intermediate agency between the court and the suitor that these benefits can be secured, and this agency cannot be complete unless it combines the exertions of those most competent to the investigation of facts, and those best qualified to enforce their legal consequences.

This has been the system adopted in most civilized countries, and is the only one which has been devised by the ingenuity of men, by which, in spite of natural inequalities, the powerful and the weak, the intelligent and the ignorant, the bold and the timid, are enabled to meet on equal terms, on the arena of justice.

That it is not equally successful in removing the inequalities of fortune, is an infirmity common to all human institutions, and no exemption from which can be presumed in favour of that which is opposed to it.

It is true, that every intermediate agency between the suitor and the court, is not only attended with expense, but with the introduction of a separate interest, not always in conformity with that of the suitor. But this is, to a certain extent, unavoidable, and is the necessary price by which alone any approach to freedom and equality can be secured to opposite litigants, and as such, wherever that object can be obtained, will be willingly paid. It does not appear that Sir Erskine Perry contemplates that the judge should, in fact, become the sole professional adviser of the suitor; but it appears that Sir Henry Roper anticipates that such would be the result at Bombay of the adoption of Sir Erskine Perry's plan, in consequence of the effect which Sir Henry Roper supposes that it would have there on the interests of the bar and attorneys. In my opinion, the adoption of Sir Erskine Perry's plan would not produce that consequence at this Presidency. I will, however, consider the probable working of the system under either supposition. I will take my examples from cases that have actually come before courts for decision. I will first select the case of *Few v. Guppy*, a case of no particular complexity. In that case, a vendor filed his bill in the Court of Chancery in England for a specific performance of a contract of sale of real estate. The vendee had been let into possession, and being in partnership with others, they had dealt with the property in the affairs of their partnership in a manner which it was said was injurious to the estate, and permanently diminished its saleable value; this was relied on by the plaintiff, not as the ground for compensation in case it should appear that no title to the premises could be made by the vendor, but as evidence of a waiver of good title, and the acceptance of the title such as it was. Now I will assume, that the plaintiff in such a case had no means of resort to professional aid, and that the judge alone could furnish him with the aid necessary to the institution of his suit in its most advantageous form. The plaintiff would have but an imperfect notion of his rights, but would resort, in the first instance, to the court. The judge, supposing him to be

be quick at ascertaining facts, and able to evolve them from the confused statement which would probably be made to him, with his faculties alive to guess at facts either studiously concealed or omitted from inadvertence, and above all, having leisure to conduct this investigation, would at length become acquainted with all or the most material of the facts of the plaintiff's case. Upon that, he would have to consider, first, whether a good title had been waived, if not, whether a good title could be made, a question often of very considerable difficulty; upon that he must either decide rapidly, and, perhaps, erroneously, or he must take time to consider it, but decide it he must, in his own mind, in that early stage of the cause, and *ex parte*, before the suit can be instituted. Let us suppose that he thinks a title can be made, and the suit proceeds on that supposition being prepared under his directions in the proper form. At the hearing the defendant being like the plaintiff, *inops consilii*, would not have the means of showing that the judge had mistaken the law, that he had overlooked this authority or misunderstood that, but still he might, if he were an intelligent person, bring certain facts to the judge's knowledge or to his attention, which had been either unknown or not sufficiently attended to before. The judge, whom we will suppose to be honest enough to correct his error, which I believe to be no violent supposition, would dismiss the suit prepared under his own advice, and in the mode in which he had prepared it. Would this be likely to inspire confidence in a court, or to give satisfaction to the public and the suitor? But suppose him to decide in favour of the plaintiff's claim, would not the defendant declare that his case was prejudged before it was heard; and that the plaintiff having first gained the ear of the judge, had irrecoverably biassed his mind against the defendant. Let us suppose, on the other hand, that the judge had thought that no case of title could be made. Would the plaintiff be contented? He would himself be unable to bring the question properly before the judge for want of legal knowledge; would he be confident of the infallibility of the judge? He might have bought, under legal advice whilst he had resort to it, that, as a good title, which the judge thought a bad one. Whatever his dissatisfaction he must acquiesce; there would be no appeal, and his suit would then be instituted as for a compensation, and in that suit other parties would have to be included, and its termination would be protracted by questions in which he would be unconcerned. But, above all, it would not be the species of redress at which he aimed, and to which he thought himself entitled. In like manner, as in the preceding instance, new facts or new views of them might, even under this aspect of the suit, bar his recovery or limit it. The decision would be subject to the same reflections as in the preceding instance. Again, in such an aspect of the suit, not only would the plaintiff's claim for compensation have to be considered with the deductions, but the claims of the parties liable to the plaintiff, to be adjusted inter se with all the various questions arising out of partnership transactions, and to a certain extent these must be determined on in an early stage of the suit. I will next consider the same case on the supposition, that the plaintiff had the means of access to professional aid in like manner as he has at present. His attorney would collect the facts from him, would elicit those not originally communicated, and would then lay his case before counsel, who would, after looking into the authorities, and anxiously considering the case on his own responsibility, advise a particular course of procedure. The resort would then be to the judge. Now, in such a case, what would be his functions? Is he to be the mere scribe or entering clerk, to put in a legal form what the counsel directs to be done? Is that likely to degrade the judge or not? But the barrister would insist on seeing that the suit was rightly instituted, and that his directions had been complied with, and his demand would be reasonable and just. The judge then would be subordinate to the barrister. But if the judge is to exercise a judgment he must then examine into the case, and review the opinion of counsel. Let us suppose that he differs from the barrister. Does it follow that the barrister is wrong? The putting on of judicial robes works no miracle; if the man were ignorant, or but little learned, or rash and precipitate in judgment, though learned, or of an over-subtle and refining habit of thought, these defects would not be lessened by the mere assumption of the character of judge. Many barristers have justly a higher professional character than some judges. The suitor would probably be told by his attorney that his suit was likely to be prejudged by the fault of the judge. He would withdraw his suit, and he would practically be denied access to the tribunal of justice. But supposing the suit to proceed, though instituted in a mode not approved of by the suitor and his professional advisers, if success attends it, the party who succeeds is not satisfied. It is not the remedy he sought, and to which he considers himself entitled. On the other hand, the unsuccessful party considers his case prejudged. But what if the defendant convinces the judge that the plaintiff is not entitled to relief, or though entitled to some relief, is not entitled to the specific relief claimed? What then would be thought? In what a position would the judge be placed who had insisted on the suit being framed upon his view, and had resisted the remonstrances of the suitor and his professional advisers. What benefit is there to counterbalance all these serious evils? In the case now under consideration, the saving of a trifling part of the cost of a suit at the risk of increased litigation, and larger expense in its subsequent stages.

I will now select a case lately under the consideration of this court. On a settlement upon a marriage treaty, the mother of the intended husband, having a considerable real and personal estate, conveys, by one deed, to which the intended husband and wife are parties, the real estate to trustees in trust for herself until the marriage in fee; upon the marriage to herself for life, remainder to the husband for life, or until he should be adjudged insolvent, and after the death of the husband or that adjudication, to the wife for life, using words of limitation of a singular and ambiguous character; with other limitations over. The personality was conveyed by another deed to the same trustees upon nearly similar trusts, but

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with a variation of language. Both these deeds were very unskilfully framed, and the meaning of the limitations to the wife was by no means clear. The marriage took effect. The husband was adjudged insolvent in the mother's life-time. A divorce *a mensâ et thoro* took place between husband and wife. The mother died. She left property to her son, who paid to the assignee under his insolvency the amount of all the debts, and claimed back the estate which the assignee had claimed. The wife insisted that the estates were her's under the shifting clauses. Her claim was resisted by the husband. She filed her bill. The questions that arose were, did the settler mean an insolvency after her own death, or an insolvency at any time? What effect had the cesser of the insolvency? Did the wife take any estate in possession immediately on the cesser, or was there a resulting use and trust to the settler, and if so, in whom was the present interest? If she took a present interest, was that subject to the *jus mariti*, and so the property of the assignees? and if so, had she a claim for a settlement, and to what amount? Now let us suppose the parties stripped of professional aid. Let us suppose the woman to become acquainted with her rights; she would necessarily be ignorant of the extent and actual state of them. The assignees and husband would scarcely be wiser. They all, or some one or more of them, resort to the judge. In such a case how hazardous would be the position of the parties. A judge unaided, would not, probably, on the mere view of the facts, unless he were singularly gifted with knowledge, diligence and patient investigation, discover on the first resort the points on which the decision of the cause should turn. It is too much to say that he might never discern them. It is the consequence of an argument at the bar sometimes to direct the attention of the court to points which may have escaped the attention even of counsel. A case clear on the first view of it, and in which the difficulties are concealed from view, would, in such a tribunal as that which Sir Erskine Perry recommends, be almost invariably decided on first impressions. A judge with no criticizing public, and few, save professional men, are competent critics of the decisions of a judge, would be in the greatest danger of falling into a careless and hasty decision of causes; and I should fear that few could be found whom it would be safe to entrust, especially in a country like India, under a system such as that which I am considering, with the discretionary and irresponsible powers with which it would entrust them.

#### PRESENT ESTABLISHMENT OF THE SUPREME COURT.

	Company's Rupees.
Master, Accountant-general and Examiner in Equity of the Supreme Court, and Accountant-general of the Insolvent Court, Mr. Grant, per annum	48,000
Prothonotary, Clerk of the Papers, Clerk of the Crown and Sealer, Mr. Holroyd	36,000
Taxing Officer, Chief Clerk of the Insolvent Court and Record Keeper, Mr. Ryan	19,200
Sworn Clerk and Receiver, Mr. O'Dowda	27,600
Examiner in the Insolvent Court, Common Assignee and Commissioner for taking affidavits in Gaol, Mr. O'Hanlon	9,000
Attorney for Paupers	4,800
Three Judges' Clerks, at 700 rs. each	25,200
1st Interpreter, Mr. Blaquiere	9,800
2d Interpreter, Mr. Smith	11,100
And 50 rs. monthly for Office Rent	600
Interpreter of Foreign European Languages and Tipstaff, Mr. Siret	2,160
Cryer, Mr. Hilder	3,600
Allowance for Chopdars	1,176
Two Interpreters to the Judges, at 3,600 each	7,200
Clerk to the Grand Jury, Mr. R. Swinhoe	800
Moulovee	2,400
Pundits	4,800
Moollahs	528
Brahmins	528
<i>Company's Rs.</i>	2,14,492

#### OBSERVATIONS on the system of Procedure in the Supreme Court of Judicature.

THE expenses of a contested suit on the plea side of the Supreme Court of Judicature at this Presidency, properly conducted without needless outlay, and without errors in the progress of it, do not materially, if they at all exceed the average cost of the trial of a cause in the Superior Courts at Westminster, even where the witnesses are all resident in the vicinity of those courts. Occasionally, the costs of a suit here will be found to be very high, but when that occurs, it has been either owing to some blunder committed in the management of the cause in its early stages, or to the expense of executing process at a distance,

distance, or to the necessity of having commissions to examine witnesses, or to the expense of translations, or to the union of one or more of these causes of expense. These latter special causes of expense occur here to a greater extent and with more frequency than in England. Where they do not occur, and there is no extravagance incurred (which when it occurs is commonly by the direction of the parties) either in retaining an unnecessary number of counsel, or in having unnecessary conferences with them, or in paying them unnecessary heavy fees, the cost of a contested suit on the plea side will, on an average, be found, I believe, to be much about the same as that of an ordinary cause in the Superior Courts at Westminster. It occasionally happens, especially where natives are parties, and the amount in dispute is large, that there is extravagance in the conduct of the suit in the instances before enumerated, at the suggestion of the parties, on whom, of course, this unnecessary outlay falls, whatever be the result of the cause. The fees to counsel and the expense of employing an attorney, constitute the principal portion of the expense of a suit. I do not concur with Sir Erskine Perry in his objections to the system of special pleading. I do not think that that system is peculiarly appropriate to the mixed tribunal of judge and jury, and I think that the substance of the system of special pleading is well calculated for a court constituted like the Supreme Court of Judicature. It throws off the admitted facts, brings prominently forward the disputed facts, prevents any uncertainty in either side of the facts on which either side relies, and tends to produce speediness and certainty of decision and cheapness of trial. It is very much the mode in which any sensible man in any domestic forum would apply himself to the settlement of any dispute referred to him by the litigants, and has its origin in simple times, when a simple and natural mode of procedure was not unlikely to prevail. The technicalities are of after growth, and not many of them are necessary to be retained. The nicety of construction of the language of written pleadings is the cause of frequent embarrassment and expense, and may be remedied; and it seems to be practicable to retain all the substantial part of the system of special pleading with all its acknowledged advantages, and at the same time to discard the material inconveniences to which it has become subject. The most obvious defect, the expense of litigation on points foreign to the merits of the case, has its origin frequently in the nicety, not to say subtlety, of the construction of language. Without meaning the slightest reflection on the bar of this Presidency, to whose talents, learning and honourable conduct I am glad to bear an honest and a willing testimony, I must observe, that less attention is paid here than in England to precision of statement in pleadings; from this cause occasionally arises expense to the suitor, and a special demurrer is occasionally filed which has no tendency to advance the real interests of the client. The court, however, has, I hope, effectually remedied this evil by a late expression of its intention for the future with regard to the costs of special demurrers of this character. The expenses of an equity suit here, as in England, are very heavy; I know not that they are heavier here, but undoubtedly the expense is in many instances oppressive; they may be reduced in some degree, and I trust that we shall succeed in effecting soon some reduction of them; but it seems to me that the defect is mainly in the system, and that an equity suit aims at too much, and that it is scarcely possible to reduce within moderate limits of expense, or a moderate compass of time, the conduct and duration of a regular suit in equity under the present system, which suit aims at settling all the rights between all parties interested to any extent in the subject-matter concerning which the present litigation arises. In a court constituted like the Supreme Court, where the same judges preside on all the sides of the court, much may be done in the simplification and improvement of a system of equity which it has not hitherto been found practicable to effect in England. Here the same judges who decide all questions of common law, are also the judges in equity, and there can exist no desire to retain jurisdiction on one side of the court in preference to the other; whereas in England there is naturally a struggle for the retention of jurisdiction wherever it has once attached. It would be difficult to show that any peculiar mode of procedure is essential to the decision of any questions that may arise under any of the various heads of jurisdiction possessed by the Supreme Court, and it would be obviously a great improvement to introduce in them a uniform mode of procedure which might easily be made to adapt itself to the particular system of laws to which it was applied.

To illustrate this by an example. A man sues for a divorce from his wife on the ground of her adultery: and he sues the adulterer for damages. As far as the proof of the adultery is concerned, the evidence will probably be the same, and is often supported by the very same witnesses. On the plea side of the court, the witnesses are produced; give their evidence *vivâ voce*; the judges observe their manner, and are alive to any thing that may detract from the credit of their testimony. On the ecclesiastical side, before the very same judges, the whole course is changed; they do not see the witnesses; their evidence is pleaded; if objections are made, these objections are by act in court; and a less satisfactory and more expensive mode of procedure is substituted, merely because the court is sitting as a Court Christian, and not a common law court. A suit for adultery no doubt is a suit of a wider range than one for satisfaction in damages against the adulterer; but it seems to me that one and the same suit seeking the double remedy, a divorce against the wife, and damages against the adulterer, could in most instances be decided without inconvenience by a court like the one under consideration. Let us select another instance; a suit on the Admiralty side on a maritime contract, *exempli gratiâ* a suit for wages by mariners. The joinder of many plaintiffs having not technically a joint cause of action, but a common claim in respect of the same subject-matter against the same party or parties, would be in my opinion an improvement in the system of common law; the remedies *in rem*, as the deten-

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tion of the ship, and its release on security, are easy of introduction into a suit at law; why, then, should any difference exist between the trial of this claim and a claim for wages by an ordinary servant? These instances are merely specimens, and are amongst the first that occur to me, and I use them merely as illustrations of my proposition, that a uniform course of procedure is perfectly consistent with the administration of different systems of law. In considering the question of reform in the system of equity, it is requisite to bear in mind that a considerable part of its jurisdiction arises from defects of the common law, as from imperfect powers in courts of law, or from narrow and technical rules of law frequently working injustice, and as the jurisdiction has sprung up from defect in the law, an amelioration of the law supplies a remedy, and justifies the extinction of the jurisdiction. In some few instances equitable remedies are engrafted by statutes in the common law; in some few instances the courts of law have made the rigour of the system of law bend to the system of equitable principles, and where this has been fully done, the jurisdiction of equity in such instances has rarely been resorted to subsequently. In some few instances, powers once exercised by courts of law have gone out of use. In all cases which fall under any of these heads, the remedy is plain, correct the law; enlarge the powers of the court on its plea or law side, the jurisdiction of the equity side becomes then unnecessary, and may be abolished. For example. A chose in action is not assignable at law, except in special cases; make it assignable, and give the assignee his remedy at law. The like observation applies to all possibilities and contingent interests; and sales of expectancies and reversions should be permitted without the interference of the court of equity, save in cases of actual fraud. A court of equity on equitable grounds restrains the parties from proceeding to a trial, or from taking out execution, or stays waste to prevent irreparable damage, and so forth. In none of those instances is there really any necessity for a resort to the court on its equity side in the nature of the thing. That the judges are not conversant with equity cannot be predicated, for they are the equity judges on the equity side of the court. A court of law anciently restrained waste; and an account, now disused in courts of law, may be rendered as complete a remedy there as in equity, with proper machinery.

By an alteration, effected on these principles, the resort of suitors to the equity side of the court would become much less frequent than it is at present; but whatever scope is allowed to the operation of these principles, a large portion of matters will still remain subject to equitable jurisdiction, and therefore it is necessary to consider how far the practice may be simplified, so as to relieve it from its principal burthens.

The jurisdiction in equity may be divided into—

- 1st. Purely equitable.
- 2dly. Concurrent.
- 3dly. Legal, but administered in equity.

With respect to the first, where the principles of equity are ascertained, and have in effect become a species of law, there is no reason why they should be administered by a separate tribunal, and why they should not be transferred to a court of law. Then the anomaly of the same rights being enforced by one tribunal, and defeated by another, would be got rid of, and courts of equity would be relieved from a variety of matters, in which they in effect exercise a legal jurisdiction under another name.

2dly. Where the jurisdiction is concurrent, each would in some cases admit of improvement by a mutual transfer of their powers, so as to render each independent of the other. This has been done in a few instances, as for instance, by enabling a court of law to issue commissions to examine witnesses, and to entertain questions of interpleader. Another mode in which it might be done, would be by enabling courts of equity to try issues; and at law to give a discovery by directing the examination of the parties. If, however, evidence were to be received *viva voce* in all cases on all sides of the court, this larger improvement would render it unnecessary to introduce the partial amendment before referred to.

3dly. Where the jurisdiction is legal, but administered in equity, as is the case with account, administration of assets, &c. it is of little consequence whether it be retained or not, as the machinery must be retained, whatever be its denomination; this, however, might admit of some simplification. To pursue the above subjects more in detail under different heads of jurisdiction in equity.

*Accident and Mistake.*

Relief on these grounds might be given at law, as for instance, an action on a lost bill of exchange, giving indemnity. This principle has been applied by admitting an action on a lost bond or deed with an excuse for profert. The relief against forfeitures and penalties might also be extended, as in the case of arrears of rent.

Mistakes in instruments might be corrected at law as in equity.

*Specific Performance.*

This might, to a considerable extent, be effected at law. The principle is applied when a verdict for damages is given, reducible upon performance.

There seems to be no objection upon principle to the prosecution of an action at law upon an agreement for the purchase of real estate, claiming in the alternative a performance of the agreement or damages, and to a conditional assessment of damages with an option in the plaintiff to claim the specific performance. If a question arise as to title, it seems to me that

that the court should itself determine the question of title without any reference to the Master, unless the investigation were one of a protracted character. The examination of parties at law would be the substitute for a discovery in aid of a suit at law, where a ground was laid for a discovery on summary application to the law court.

No. 1.  
On Civil Judica-  
ture in the  
Presidency Towns.

*Trusts*

Should remain subject to the jurisdiction in equity. A summary process would, in most instances, suffice, whether the object were simply an account, or the construction of an instrument.

*Dower and Partition.*

The jurisdiction in equity being grounded on imperfection of powers in courts of law, there seems to be no ground for its retention. If retained, however, the process should be summary, as it is in partition in the Supreme Court by one of its rules.

*Account.*

Unless the question involved the execution of a trust, there is no reason why resort should be had to equity, the machinery on any side of the court being capable of application on all its sides.

*Infants and Lunatics.*

The jurisdiction should be summary, and in the latter case without the expense of a commission, and the court itself summoning before it all necessary witnesses.

*Summary Jurisdiction.*

The institution of a regular suit is the great expense in equity as in the ecclesiastical courts. I think that a summary procedure might in most cases be instituted, as it has in some instances in the ecclesiastical and admiralty courts. It is already exercised in bankruptcy without inconvenience; it is given by several statutes, as in the case of infant trustees. By substituting summary proceeding for full proceeding and a regular suit, by the substitution of vivâ voce evidence for written testimony, by rendering a cross bill unnecessary by the examination of parties, now resorted to in some instances after decree, by adopting with extensions the practice lately introduced at law of calling for admissions, and by other modes of simplification, the burthensome character of a suit in equity might be destroyed, and the resort to that branch of jurisdiction, when necessary, would not be impeded, if not prevented altogether by a dread of the expense and protracted litigation to which an equity suit now gives rise. I will conclude these observations by observing that for a considerable part, and I doubt not the most valuable part of those relating to equity, I am indebted to Sir Henry Seton, between whose views as to the reform of the system of equity and my own, I am glad to observe no material difference.

13 February 1844.

(signed) *Lawrence Peel.*

From *T. R. Davidson*, Esq. Officiating Secretary to the Government of India, to Secretaries to the Governments of Bengal (No. 29); Fort St. George (No. 44); and Bombay (No. 45); dated 22 June 1844.

Legis. Cons.  
22 June 1844.  
No. 9.

Sir,

I AM directed by the Governor-general in Council to forward to you the accompanying printed copies of a Report by the Indian Law Commissioners, dated the 15th February last, with its enclosures, on the Civil Judicature in the Presidency towns, and to request that, with permission of the \_\_\_\_\_ you will distribute the same among the authorities of the \_\_\_\_\_ Presidency, and forward, for the consideration of the Supreme Government, the opinions they may form, in particular those of the Judges of the Supreme Court, with the sentiments of his \_\_\_\_\_ in Council on the several recommendations of the Law Commissioners.

Home Department.  
Legislative.

I have, &c.

(signed) *T. R. Davidson*,  
Officiating Secretary to the Government  
of India.

Fort William,  
22 June 1844.

No. 1.  
On Civil Judica-  
ture in the  
Presidency Towns.

(No 15.)

From the Indian Law Commissioners to the Right Honourable the Governor-general of India in Council; dated 25 July 1844.

Right honourable Sir,

Legis. Cons.  
3 August 1844.  
No. 1.

WITH reference to our Report dated the 15th February 1844, upon Judicature in the Presidency Towns, and to the papers printed in the Appendix thereto, we have the honour to submit to you a Supplement to the Appendix, containing a minute laid before the Governor in Council of Bombay, by Sir Erskine Perry, Puisne Justice of the Supreme Court at that Presidency. As this paper is supplementary to the minute of Sir Erskine Perry, contained in the Appendix, and refers to the other papers in the Appendix in which that minute is discussed, and ably vindicates the system of judicial procedure recommended in our Report, we have thought it proper to print it in its present form, to complete the subject.

We have, &c.

(signed) C. H. Cameron.  
D. Elliott.

Indian Law Commission,  
25 July 1844.

#### SUPPLEMENT TO APPENDIX.

From Sir *Erskine Perry*, Puisne Justice of the Supreme Court, Bombay, to the Honourable the Governor in Council, &c. &c. &c.; dated Malcompait, 22 May 1844.

Honourable Sir,

I HAVE the honour to call your attention to a late Report of the Law Commission, dated 15 February 1844, and to the discussion contained in the Appendix thereto, with the view of raising the question as to the expediency of establishing in Bombay a civil court on the principles indicated by the Law Commissioners.

2. It has been long felt and acknowledged by those who have paid most attention to the interests of British India, that one of the most valuable boons which it lies within the competence of Government to confer upon this vast country, consists in the establishment of a rational intelligible system of law, founded upon the fixed principles which enter more or less distinctly into every scheme of jurisprudence, and adapted to the habits and customs of the different classes of the community. Such a system to be administered on simple rules of procedure, and with all the sanctions which experience has pointed out as appropriate for securing judicial purity and aptitude, may be safely affirmed to be the most potent instrument which a conquering nation possesses for securing the confidence and preserving the allegiance of its conquered subjects.

3. Nevertheless exceedingly little has been done hitherto towards this desirable end; and in the two systems of law dispensed by the British in India, namely, by the Supreme Courts at the Presidencies, and by the Company's courts in the mofussil, there appear to be defects of such magnitude and importance, as to render either of them incapable of rendering that service to the community which is predicable of a rational well-constructed code.

4. The chief defect in the mofussil system appears to be, the absence of any established law sources, from which a clear rule can be deduced on any occasion that may arise. Except in the simple cases that are provided for by the Regulations, I cannot well conceive what course a mofussil judge adopts towards ascertaining the rule to be applied in any doubtful question. The few treatises which are translated into English will carry a law student but a very little way, and the published reports would appear to show that on every intricate point a mass of conflicting opinions is sure to be elicited from the Shastries. The Regulations express that, in the cases not there provided for, the decision is to be according to equity and good conscience alone.

5. But what is equity when used in this vague sense? It is the notion of right, of just, of propriety, which the judge, upon hearing the facts, adopts. It is a notion that, in the absence of any standard to refer it to or authority to correct it by, must necessarily vary with every judge, just as much as the length of their respective feet, to avail myself of the illustration of Selden. An educated Englishman may study the principles of jurisprudence either in an English law library, or in the literature of the Roman and Rome-derived systems, and undoubtedly a well-grounded knowledge in one or other of the only two systems that have prevailed in civilized Europe, may render the dispensation of law according to equity and good conscience an easier task; but still, as neither of these systems is of authority in the mofussil, they neither of them contain the norma or standard to which a mutual reference can be made.

6. For these reasons, and from the received opinion that prevails (owing very much, I believe, to the high authority from whom it emanated, Sir Thomas Munro), that eminent judicial



judicial qualities are much less needed from civil servants than zeal and ability in revenue matters, the legal system of the mofussil would seem to contain no germs from which a rational scientific corpus of law can be eliminated.

7. English law, on the other hand, presents an immense arsenal from which the legal inquirer can furnish himself with weapons. The careful record of cases upon every doubtful point, which some hundreds of years have accumulated, affords a "precedent on the file," or a rule to be deduced by analogy, in every case that arises; and the judge in delivering such a rule is seen, not to be following the dictates or caprices of an arbitrary will, but to be administering the language of the law as ordained by a superior authority. The mode in which this system is applied however, the delay, vexation and expense which have to be encountered before the decision of the court is obtainable, the technicalities which so often interpose to prevent that decision proceeding on the merits of the case, and the impossibility of making the rationale of such results (if rationale there be) intelligible to a nation of foreigners, all these combined make the English system of law in its present form, even less capable than the mofussil system of rendering those services to the community which, as above indicated, a sound corpus juris is capable of affording.

8. But it should be observed, that, between the defects noted in the Supreme Court and mofussil systems, there is an essential or necessary distinction; for, whereas in the latter the defect indicated is inherent, and not capable of remedy, except by the institution of a body of positive law, in the former the evil is merely accidental, and is capable of extirpation without injury to the substantial fabric. In other words, the mofussil courts may be said to dispense a system of law deficient in substantive enactments, and as to which neither judge nor suitor knows where to seek for an authoritative exposition of the rule; but the law, such as it is, is dispensed for the most part in a simple and expeditious manner. The Supreme Courts, on the other hand, are the organs of a complete body of jurisprudence, and their decisions proceed on vouchable and vouched authorities, which are open to all to consult; but the mode of administering the law is as costly, complicated and dilatory, as the natural system of the mofussil is otherwise.

9. Now it is obvious, that if these evils of procedure were obviated, and simple rules of practice adopted in the Supreme Court, a complete system of jurisprudence would be at work approaching to the character of a science, containing full information and discussions as to every title of the law, the principles of which would be easily intelligible to the world at large, and which would be capable of easy extension beyond the limits of the Presidency, whenever the Legislature should think fit to add to the body of actual law prevailing in the mofussil.

10. Such seems to be the view entertained by the Law Commission, as evinced in their late and in preceding Reports. The simplification of English procedure, therefore, is the problem to which all those should address themselves who seek to benefit the Indian community in their legal relations and exigencies.

11. The Law Commission have addressed themselves to this subject, by treating of the fundamental distinction in English practice between the administration of law and equity, and as the rigid distinction between these two is a favourite "idol of the tribe" with English lawyers, the Commission have shown at considerable length, and, as I conceive, with complete success, that this peculiarity\* in the administration of justice, fraught as it is with so much of the delay and expense alluded to above, is most easily to be abolished in the case of the Supreme Courts in India. Sir Lawrence Peel has carried out these views still further (App. p. 70) by indicating in detail how several of the distinct branches of equity could at once be placed within the jurisdiction of a court of law.

12. The Law Commission having thus got rid of one fruitful branch of vexation and expense in English procedure, go on to point out a uniform mode in which all facts in dispute between litigant parties should be brought before the court. "Rules of property," says Sir William Blackstone, "rules of evidence and rules of interpretation, in both courts, are or should be exactly the same; both ought to adopt the best, or both must cease to be courts of justice."—3 Comm. 434. But if this canon is applicable to courts of law and equity when sitting apart and composed of different individuals, how much more forcibly must it apply to a tribunal to which, by an effort of the mind, four or five different characters must be attributed at every sitting of the court, and in all of which characters different rules of law, different rules of evidence, and different modes of seeking out the truth are recognized as the governing doctrine. The mode proposed by the Law Commission to elicit the matter in controversy in every suit is to bring the litigant parties into the presence of the judge at the earliest possible period, and to take down from their lips, assisted by their legal advisers, the matters of fact on which the dispute in law arises, or the matters of fact on which the parties are at issue amongst themselves.

13. In a communication which I had the honour of making to the Law Commission in June 1843, I had previously urged the adoption of a similar system, induced thereto by observing, on the one hand, the extreme expense and delay of the prevailing procedure, by which, on the common law side, a disputed claim of above 350 rupees cannot be decided without

\* The administration of law and equity by different courts is peculiar to England, for although a similar distinction existed at Rome under the terms "jus civile" and "jus honorarium," these branches of the law were not administered by different judges. The Prætor both gave (dabat) actions which were of the civil law, and decreed (dicebat) interdicts and other equitable remedies.



without an expenditure of 1,200 rupees to the parties, and by which, on the equity side, a dishonest or vindictive opponent may protract the suit for 10 or 15 years; and, on the other hand, by observing the facility, the cheapness and satisfaction to suitors with which claims under 350 rupees were disposed of in the small cause court by a procedure similar in its main features to the system proposed.

14. The plan of procedure thus alluded to has been subjected to a minute and elaborate criticism by Sir Lawrence Peel, and has received from that distinguished person (expressing at the same time the sentiments of the other two judges at Calcutta) unqualified disapprobation. It is evident, therefore, that the arguments alleged by him deserve the most careful attention, not only on account of the high authority from which they emanate, but because they will be seen to be entertained by men to whom the reproach so often urged against our common profession of reluctance to aid the cause of law reform, which none but lawyers are ordinarily competent to meddle with, can in no respect be made.

15. But before I proceed to notice in detail Sir Lawrence Peel's objections, I will, for the purpose of simplifying the point under discussion, advert to a confusion with which the question is complicated respecting the meaning of the ambiguous term "equity," and I will then recapitulate very shortly the system of procedure proposed.

16. According to the cloudy notion which prevails in the world at large as to the meaning of equity in its technical application, a notion from which even lawyers are not always free, the term denotes something higher and better than law, transcending it in its range, and founded, not like law generally, on the commands of the supreme authority in the State, but on the *non obstante* power attributed to some particular functionary of deciding cases according to his views of *quæsum et bonum*. It is true that equity, on its first appearance in the only two countries (Rome and England) where it has been known of as something distinguished from law, assumed a form in great degree corresponding to the above notion, and the same historical ground can be discovered for its origin in either country. The *jus civile* of Rome, with its limited range of ideas, its cumbrous machinery for the transfer of property, and its superstitious adherence to symbolic forms, although all-sufficient for a young and half barbarous horde, was found wholly incommensurate with the wants and exigencies of a growing civilized people, and hence the power assumed by the Prætor of breaking through and remedying the harsh enactments of the civil law was forced upon him, and gladly submitted to, from the crying necessity of the case. The very same inaptitude of the common law of England, with its rugged feudal provisions, to meet the more complicated relations engendered by commerce and the progress of social life, is equally to be exemplified in our own history; and the stubbornness of our common law professors, in resisting the attempts to break through their narrow formulas, is pithily illustrated by the anecdote of Sir Thomas More, so aptly cited in the Report of the Law Commission, p. 44.

17. But those who conceive that the dispensing power which the *jus honorarium* and equity first assumed in Rome and England, continued to be the distinguishing attribute of each system, most grievously err. In the former country, it was soon found to be intolerable that the Prætor should lay down a special rule for each particular case, according to the whim or caprice of the moment, and accordingly a distinct body of equity or honorary law was soon established by the perpetual edict, into which new institutes were from time to time introduced as any other new law. So also in England, the common sense of mankind (well condensed in the above sarcasm of Selden) soon put a check on the arbitrary power assumed of overriding the law, and a body of equity law came to be established just as precise and positive in its principles as common law itself. The subjects it deals with are, for the most part, different, being those which the common law, from its narrow principles or the defective machinery of its courts, was unable to cope with. But in the cases brought before a court of equity, the equity judge proceeds as little upon arbitrary discretion as the common law judge in those cases peculiar to his court; each of them consults his books, and applies his powers of ratiocination to discover the rule applied in similar cases by his predecessors, and each holds himself equally stringently bound by such rules when discovered. It is true that equity law has entirely grown out of the decisions of equity judges; and therefore it follows, that new rules are from time to time laid down by them as the occasion arises; but the same remark is almost equally applicable to the common law. Such is the system of English jurisprudence. Lord Holt, by a single decision, introduced as it were and established the whole law of bailments. Lord Mansfield, by a series of decisions, may be said to have created the commercial law of England. Lords Nottingham and Hardwicke did no more for equity than the above great judges for common law. The most complete similitude exists, therefore, between the two systems, and, except for the uncouth phraseology, the department of civil law, which is now divided by law and equity, might be much better distinguished into common-law law and equity law.

18. It may be expedient in a highly populous and civilized community, to parcel out between different tribunals the various subjects on which litigation is likely to arise: thus, the exposition of wills and enforcement of the marriage contract or domestic relations may be committed to one court; trusts, accounts and questions on partnership to another; breaches of contract and enforcement of simple *jura in personam* to a third; and this is what occurs in England. On the other hand, all these different jurisdictions may be concentrated in one court, having appropriate machinery and requisite powers for discharging all its various functions effectually; and this is the case with the Supreme Courts in India. But what is contended for and maintained, is, that in either of these cases, the rule which is pronounced by the court, whether it be a court of law or a court of equity, or a Doctors' Commons' Court (in which not even the nominal distinction exists), or whether it be one

Supreme

Supreme Court, the rule, I repeat, to be laid down, is, the substantive law of the land irrespective of any nominal distinction into common-law law or equity law.

19. The above is conceived to be a true though a succinct explanation of the relative meanings of law and equity, but whether it be theoretically correct or not, it is undoubtedly the practical account of the mode in which questions, whether of law or equity, are disposed of by the judge, by which it will be seen that the same definite attributes and fixed character may be predicated of each, and are recognized as belonging to each respectively.

20. This being so, it is submitted, that in all cases, but more especially in those where the functions of law and equity are centred in one court, the mode of bringing the facts in controversy before the court should be the same. Whatever has been seen in experience to be an effectual instrument towards eliciting the truth, should be adopted in all cases where the truth is a matter of research. If, therefore, the *vivâ voce* examination of parties in open court has been found more effectual than examination upon interrogatories in a close room, and in the absence of the judge and of the parties, there is no doubt as to which of these two should be adopted as the general rule. If, again, the advantages which equity practice presents, by subjecting the parties in the suit to full disclosure and discovery of all they know, are so great as almost wholly to counterbalance the defective mode of eliciting the truth by interrogatories, experience and reasoning evidently suggest that these two potent modes of ascertaining the facts should be combined, and that the inferior and contradictory processes should be abandoned. If, lastly, it has been found by experience that the great portion of the delay, vexation and expense, which attend litigation in the technical procedures devised by practitioners under the English and Rome-bred systems,\* are owing to the mass of written pleadings and various agencies which are interposed between the suitors and the court, it seems most desirable that a recurrence to first principles should be made, and that every facility should be afforded to suitors of communicating with the judge in open court, without the intervention of legal agency, except when the assistance of professional learning and acuteness is required.

21. The following three articles therefore form the basis of the system of procedure which I ventured to propose, and which the Law Commission also adopt as the rules of practice for their proposed new court.

1st. *Vivâ voce* examination of witnesses as the general rule.

2d. Examination of parties to the suit.

3d. Appearance of parties before the judge in the first instance, and oral pleadings under the authority of the Court.†

22. I now apply myself to Sir Lawrence Peel's objections. To the two first propositions I do not understand that any objection is made. It would seem, therefore, that all the judges of the Supreme Court at Calcutta concur in recommending these great improvements in procedure. Sir Henry Roper is also of opinion (App. p. 61.), that the first rule should be adopted, and I do not conceive that he objects to the second; he also thinks it feasible, that the pleadings should be framed under the supervision of an officer of the court.

23. The objections of Sir Lawrence Peel, therefore, apply to the third point only; viz. to oral pleadings, and the appearance of the parties before the judge. Neither of these propositions is very distinctly combated in terms, but I take them to be tacitly involved in the

\* It seems to be conceived by some, that by adopting what is termed "summary procedure," a great portion of the existing evils of equity practice may be got rid of; Sir Lawrence Peel appears to incline to this view.—App. p. 71. But it must not be forgotten, that summary procedure is also technical, and that all the same causes are at work to make it just as dilatory, expensive and counter to the interests of suitors, as so-called regular procedure. In the continental systems, from which summary procedure has been taken, a form of proceeding exists, called "*summariissimum*," intended to provide for cases of pressing emergency, but it seems that practitioners contrive to make this most summary proceeding occasionally last 20 years.—See Von Savigny's *Necht des Besitzes*, p. 653, 6 ed.

† I see by a late *Athenæum*, that the King of Prussia is proposing to introduce oral pleadings into the German courts, in order to correct the same evils which we are encountering in English procedure.

† The Law Commission, in reference to the views expressed in my minute on special pleading, have stated a stronger dissent of opinion than I conceive to exist between us. In that minute, I described the course of pleading in equity, and pointed out and objected to the necessary delay and expense which it occasioned. But in order to prevent it being supposed that these objections grew out of a bigotted preference for the system in which I had been myself educated, I went on to deprecate special pleading equally strongly, as the general form of procedure. But, unquestionably, I do not at all dissent from the use which the Law Commission propose to make of certain of the rules of special pleading, which have been found effective in practice, and undoubtedly, so far as the "rules of pleading are conformable to the logical operations of the mind in the logical management of a dispute," (see Sir H. Roper's Minute), they not only should not be, but cannot be departed from in any scientific system. I conceive, however, that if written pleadings are abolished, and, with them, the greater part of the technicalities with which written pleadings are accompanied, it is a misnomer to apply the designation of special pleading to a new system, in which only a few of its rules are adopted. The system of special pleading, properly so called, I continue to think wholly inapplicable to India; it is almost impossible, from the circumstances of the country, that a race of men like special pleaders, whose natural habitat seems the temple, should flourish in this country, and from the remarks of Sir L. Peel, I should gather that the Statute of Beaufleader is as much a dead letter at Calcutta as it is at Bombay.

the following propositions, which I conceive to be the pith of the objections urged by Sir L. Peel.

1st. The plan proposed is not applicable to Calcutta, because it throws additional duties upon the judges, and their time is already fully occupied.—p. 64.

2d. The plan requires a judge of higher qualities than can be found, and even the highest qualifications would not be sufficient to ensure success, because such judge would have too much power.—p. 65.

3d. Equity would be administered blindly and erroneously, because the judge would not be certain that all the facts were before him.—Ibid.

4th. Decisions would go against one of the parties by surprise, or if adjournment were made to enable him to meet the facts of the case brought against him, nothing would be gained by the new plan.—Ibid.

5th. Uncertainty would be introduced into the law, and, consequently, increase of litigation.—Ibid.

6th. The latter result would also flow from the abolition of opinion business.

7th. Both the latter results conjointly from decisions proceeding "on notions of natural justice or equity, and not upon the adopted system of municipal law."—p. 65.

8th. Variance would be introduced between the law of England, and that prevailing at Calcutta.—Ibid.

9th. The system introduces a violent change, and does not enable the preferable course of introducing improvements by steps.—Ibid.

10th. Various objections to the appearance of parties before the judge in the first instance, founded on the difficulty of the operations to be performed by him, and the odium he will be exposed to.—p. 65, et seq.

24. Now, undoubtedly, a formidable list of specious objections is here presented, and if only one-half of them is well founded, it were undoubtedly wiser "*stare super antiquas vias*," and to reject the proposal at once. But upon examination, I think it will be found that the greater and substantial portion of these objections may be resolved into two propositions; First, the proposed plan will introduce misdecision, and consequently uncertainty into the law. Second, the plan gives the judge too much power. Of these in their order:

25. First, as to misdecision. This class of objections proceeds upon two assumptions; 1st, That the proposed procedure will not bring the facts in each case to the notice of the court; 2d, That upon the facts so brought, the judge will decide on arbitrary notions of justice and equity, and not on the substantive law of the land. Now, the first assumption is a fair hypothesis to be made; the question is as to a new system of procedure, and it is a complete answer to it if it can be shown that it will fail in eliciting the facts necessary for a decision, all that can be required in such an hypothesis is to bring forward sufficient arguments to support it. But the second assumption is altogether untenable and gratuitous. No change is proposed to be made in the substantive law of the land, but only in the mode in which the controversies of suitors are to be brought forward, in order to have that law applied to them. There is nothing, therefore, whatever in the premises to warrant the conclusion, that judges will decide more erroneously in one mode than in the other; indeed, it is clear to demonstration that the decision will proceed in every case according to the particular judge's knowledge of the English law, and his powers of applying it to the facts laid before him. It is difficult, therefore, to account for the appearance of this argument in the discussion, except by supposing a momentary confusion of the rules of procedure with the substantive law of the land, and by referring to the equivocal meaning of the term equity, both of which points have been discussed above.

26. The first assumption, therefore, is all that needs to be noticed, viz. that natural procedure will not bring out the facts. But what arguments have been brought forward by Sir L. Peel to warrant this assumption? Not one; and it is evident that, in a speculative inquiry, the authority of no man (and I have much pleasure in seizing the opportunity to state how highly I esteem the authority of Sir Lawrence Peel), can establish a proposition, except so far as it is supported by solid argument. To me it appears that the great advantages of the scheme consist in its aptitude to admit of all facts in issue between the parties being readily brought before the court, and that it is directly calculated to obviate those evils in the existing system, by which essential facts are so often shut out, and by which so many decisions pass irrespective of the merits of the case. Every practitioner's memory will furnish him with innumerable cases at the assizes, where the parties, through a mistake of their pleader, or negligence of their attorney, have been what is called "turned round on the pleadings," or put out of court by a failure to prove a notice or signature, and the volumes of reported cases are equally full of decisions where the interest of the suitors have been concluded for ever on some blunder or other of their legal advisers, and wholly irrespective of merits.

27. But specific instances are brought forward to show how ill the personal appearance of the parties before the court, and oral pleadings, would work in practice; and as such instances, ordinarily, take more hold of the mind than abstract reasoning, it is well to examine them somewhat minutely. The cases referred to are *Few v. Guppy*, and an anonymous case decided at Calcutta. The first was a question of specific performance of a contract respecting real estate; in the latter a construction had to be put on an ill-worded marriage settlement.

28. Now it may be observed generally of cases of this description, that they form but a small minority of the total number of the legal controversies which arise in the community. In the majority of cases, say five out of six (see App. p. 51), in which recourse is had to courts

courts of law, the resistance of the defendant is founded, either on want of means, or in the desire to stave off the claim for a time by reliance on "the law's delay." With respect to such cases, I apprehend that it can hardly be disputed that too great facility cannot be afforded to plaintiffs to enforce their legal claims, and that no evil can be incurred; but, on the contrary, great advantages to public morality, by withdrawing from dishonest or tricky defendants, all opportunity of defeating their opponents by chicanery. This class of cases, therefore, presents no difficulty as to their being disposed of in the first instance, by the appearance of the parties before the judge, without any preliminary expense; so far, therefore, a great advantage is gained for the majority of cases, and of honest suitors. There remains the remaining portion of cases above noted; namely, that portion in which some disputed question of law or fact requires to be decided by the court.

29. Now it is evident that this class of cases is divisible into those where the parties are wealthy enough to avail themselves of the assistance of counsel, and into those where they are not. In the latter of these cases, according to the system proposed, the onus would, undoubtedly, be thrown upon the judge of lending its assistance to the quasi-pauper parties (for if actual paupers, they would have the assistance of Government), and of eliciting from them the actual question. This might be a disagreeable office for the judge, but I cannot see in it any thing but a benefit to the public. It is true, that in such cases the court, in the absence of any forensic advocacy on either side, would often fail in discovering points material to the issue, points which the parties themselves might be blind to, and the law delivered would be frequently inferior in quality to what it would have been, after hearing all that legal acuteness and industry could suggest. But the same observation is equally true of every system that exists, or that can be conceived. Proof of all the facts relating to a given case, and bringing to bear all the law applicable to such facts through the organs of the greatest intellects which the legal profession can afford, are two operations necessarily demanding great time and expense. And to expect that two paupers, contending for a hovel on the common, will have their case equally solemnly and well decided with a case like that of *Lord Scarborough v. Lumley*, where many thousands a year was depending, were to expect an impossibility. An approximation to this result is attained by every approach made towards simplifying and generalizing the substantive body of the law itself; but in the meantime, and indeed at all times, the most important desideratum for poor suitors is, that their legal disputes should be determined by the judges of the land as speedily as possible, and with as little destruction as may be of their only capital, time, even at the risk of the occasional misdecision which summary procedure necessarily, but not exclusively, involves.

30. With respect to the class of cases where a doubtful question arises, and where the parties are in a condition to avail themselves of legal assistance, very little need be said. The eminent advantage of such assistance is so obvious, that no one would fail to avail himself of it when within his reach, if his rights or possessions became the subject of legal discussion. Sir Lawrence Peel is not at issue with me on this point. He does not conceive that the adoption of a simple system of procedure would supersede the employment of counsel, at all events at Calcutta, but it is evident that what is true of Calcutta in this respect is true of all the world, for the principles at work are those of human nature. Although, therefore, Sir Lawrence Peel argues the question in one view, as if counsel would not be employed in difficult cases, as that view is neither his nor mine, I need not consider it further in this place.\*

31. To apply the above observations to the cases, *Few v. Guppy*, and the anonymous one at Calcutta. If they belonged to the pauper class, which apparently they did not, they would have to be placed by the judge in a train for decision, and to be decided according to the best lights of his legal information and natural capacity. That they would be occasionally ill-decided, is to say no more than that man is fallible; but that they would receive a less share of attention, or of anxiety on the part of the judge to be right, than similar cases now meet with in England or in India, there seems no reason whatever for supposing. If, on the contrary, the cases were such as enabled the employment of counsel, the conduct of the suit, or *litis-contestation* would be accompanied with all the assistance, which professional advocacy is now capable of affording to suitors, with the additional advantage of securing to the latter an indemnity against any damage, which, under the present system, he is so frequently exposed to by mistakes fallen into during the interlocutory proceedings in the suit.

32. The assumption, therefore, that the natural mode of procedure will not enable the facts of each case to be brought before the court, appears to me to be warranted neither by the arguments brought forward, nor by the two cases cited, and consequently all the objections which involve this assumption as an enthymeme, fall to the ground.

33. The second main objection is, that the plan will place too much power in the hands of

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\* I entertain, indeed, a strong conviction that the existence of a simple system of procedure would open a much wider field for forensic talent and employment than at present. The elicitation of truth amidst conflicting statements, the clear exposition of principles from circumstances "immersed in matter," and the logical reasoning required to bring these principles within the rules of the law, are operations that will be so immeasurably better conducted by men trained in legal science and controversy at the bar, than by the common herd of mankind, that it seems to me clear their services can never be dispensed with. And if so, all that money now spent in useless procedure, will form a larger fund for their employment.

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of the judge. Now no one is more alive than myself to the evils of attributing undefined irresponsible powers to the judicial authorities, and although I conceive that Mr. Bentham has gone ludicrously far in the surveillance he proposes to exercise over judges (whom, truth to say, he often treats little better than pickpockets), I confess that I should be sorry to see any of the existing checks over their discretionary power diminished. But it appears to me that India is the last country where any apprehension on this score needs to be entertained. The judges of the Supreme Courts have very little of the moral support which judges in England derive from the influential classes of society. They do not form a part of, and have no connection whatever with, the local government of the country, and they are occasionally placed in something like direct conflict with it. They exercise a decided and direct control over the governing classes of the community, who have been said by a very high authority \* occasionally "to confuse power and right in a manner in which nobody confuses them at home," and such control, however lightly or temperately administered, can scarcely prove otherwise than galling. The public press represents the interests of the executive classes almost exclusively, and therefore has additional motives to the tendency of a public press generally, to keep a rigid look out for judicial peccadilloes. The bar, lastly, either from local circumstances, or the absence of that easy gradation to the bench which occurs with the bar in England, have little of that esprit de corps which distinguishes the profession at home; and, from their connexions with clients, with the governing classes, and with the press, they are more prone to concur in any carpings and cavils at judicial authority, than to support it even in its due exercise by their moral influence. These circumstances may not be prejudicial in their result to the public interest, however annoying occasionally to the judge personally (and Sir James Mackintosh alludes to them feelingly more than once), but most undoubtedly they afford potent sanctions against any undue exercise of power.

34. The specific case pointed out by Sir L. Peel (App. p. 65), as giving greater power than that which a judge ought to possess, consists in the power attributed to him of deciding "whether a suit shall be instituted in the first instance or not." But, with deference, it appears to me that this power is no greater than what the judge possesses, and most frequently exercises at present. If a plaintiff applies for a writ, and fails to persuade the judge, either by himself or his counsel, that he has got a cause of action, I can see no greater exertion of power in a refusal of the writ, than is displayed under the present system when the judge nonsuits the plaintiff, equally, after hearing his own view of the case as urged by his advocate. An arbitrary abuse of this power has been checked hitherto by the publicity of proceedings, by the license of speech in counsel, by the power of the party to bring forward his case again and again, and by appeal; to say nothing of the other motives influencing every judge more or less strongly, love of reputation, love of justice, fondness for the art, &c. These checks have proved amply sufficient hitherto to prevent wanton misdecision; they would exist with equal force in the system proposed, and the only innovation is, that the power would be exercised without the parties being required to expend 1,200 rupees to bring their case into court.

35. The other objections, not included in the above two propositions, are of a minor character. If the plan is not applicable to Calcutta, because the time of the judges is already fully occupied, it would be a misplaced economy on the part of Government to withhold from the community a sufficient number of courts, by which law might be administered at one-tenth of the present expense on the common law side, *see* App. p. 53, and at a still greater ratio of diminution, both of time and expense on the equity side.

36. But there need be no additional expense to Government, for it appears to me, I confess, that the system which prevails in India for the Judges of the Supreme Courts to sit conjointly at the trials of matters of fact, is warranted neither by principle nor by the home practice, which in all other matters has been so servilely followed. All trials of fact in England (with the exception of the nearly obsolete trial at bar), are tried before a single judge, whether at equity, or at Nisi Prius, or in criminal sessions. Another exception indeed exists in the case of trials before country gentlemen at quarter sessions, but this is so confessedly the worst tribunal in England, that it can hardly afford an example for the Supreme Courts in India. If then a recurrence to English practice were made by the latter courts, there would probably be quite sufficient time for the Calcutta judges to get through all the cases that would arise on the new system, singly in the first instance, and conjointly as a court of appeal, from the decision of any one of the three judges. This last advantage is wanting to the Presidencies of Madras and Bombay, but it is a deficiency in a judicial system so greatly to be deplored, that I cannot help supposing that, at some time or other, the Government will supply it. And what leads me more strongly to this conclusion, is the fact, that the appointment of a third judge would add little or nothing to the expenditure now made, as it would supersede the necessity of employing non-professional judges at the petty sessions and court of requests, and so commit the whole judicial business of the Presidency to its legally educated and responsible judges.

37. The objection as to the inability to introduce the scheme proposed gradually and without violent change, has been so completely anticipated by the cautious provisions of the Law Commission, that it is unnecessary to notice it further.

38. I have thus satisfactorily to my own mind, and after a most careful perusal of Sir Lawrence Peel's minute, disposed of the various objections which he brings against oral pleadings,

\* Sir Benjamin Malkin. Letter to Governor of Siuapore, on the Government Records.

pleadings, and the appearance of the parties in the first instance before the judge. But I cannot be blind to the inclination we all have to regard one's own arguments with complacency, and to undervalue those of one's opponent. I think it very probable, therefore, that on a question of this kind, the reasoning which I conceive to be altogether untenable, may appear to others of overwhelming force, or at all events equally specious with that which I have urged, I therefore address myself to the practical proposition which I mentioned in my first paragraph.

39. It will be seen that the question at issue is, as to the results which may be predicted from the employment of a new system. It is in great degree, therefore, a question of prophecy. But there is this distinction between me and my opponents, and this great advantage on my side, that I am able at every stage of the inquiry to point at the successful operation of a system in practice, conducted upon the principles I contend for. In the small cause court at Bombay, the pleadings are conducted under the superintendence of an officer of the court; and the parties are examinable at each stage of the inquiry. The result of the first rule is, that during the three years and upwards that I have had a seat upon the bench, I never witnessed the decision of a cause upon any other ground than the merits. The result of the second rule is, that in every case where conflicting testimony occurs, the immense advantage obtained by the power of sifting the parties themselves, enables the judge to form a much clearer and more satisfactory conclusion than in any other mode in which disputed facts are brought before the court. The result of the two rules combined is, decision of suits at one-tenth of the ordinary expenditure, and a satisfaction to suitors with the mode in which their cases are disposed of, that I do not apprehend arises upon litigation on other sides of the court. It appears to me, therefore, that Bombay offers peculiar advantages for making an experiment of the species of court proposed by the Law Commission. There seems to be a desire on the part of the community that the powers of the court should be extended, and the memorial lately presented to Government with a prayer to this effect, was supported by the recommendation both of Sir Henry Roper and myself, when Government did us the honour of consulting us. The Bombay judges have time upon their hands which might be devoted to the new court, and if the court of requests were left as it is for the present, the experiment might be made without a single rupee of additional expenditure. Nor would any violent change be at all introduced. The small cause court would remain the exclusive court for suits under 350 rupees only; for all other causes, it would be at the option of plaintiffs to take them there or not, and we may be quite sure that the acuteness of mankind to discover their own interests, would soon ascertain whether the fears prognosticated by Sir L. Peel were imaginary or not. If the scheme did not work well, it would be abandoned at once; if the public, on the other hand, found it to accord with their interests, the disputed problem is solved.

40. I have not had an opportunity of communicating with the Chief Justice on this suggestion, as I am writing this paper at the Hills, but as I am proposing a scheme which undoubtedly throws more court business upon the judges than heretofore, I think it only fair to him to state, that I am perfectly willing to undertake the sole sittings of the small cause court, so as to allow of all the causes decided by me (on which any difficulty may arise), to go up on appeal to the Chief Justice, as a sort of Chancellor. This is the only method in which I can suggest to myself the formation of an efficient court of appeal, where there are only two judges, and although the arrangement would place the puisne judge in a more subordinate post than he at present fills, I am quite ready to submit to this infinitesimal loss of dignity, and to the extra work contemplated, for the sake of the public benefit, which I anticipate from the experiment.

41. I have only, finally, to apologize for the wide range and controversial tone which this paper has necessarily assumed, and to observe, that my justification consists solely in the opinion I entertain, that the questions here discussed, have a much wider range than the narrow limits of Bombay.

I have, &c.  
(signed) *E. Perry.*

(No. 38.)

From *T. R. Davidson*, Esq., Officiating Secretary to the Government of India, to Secretaries to the Governments of Bengal (No. 38); Fort St. George. (No. 56); and Bombay (No. 57); dated 3 August 1844.

Legis. Cons.  
3 Aug. 1844.  
No. 4.

Sir,

In continuation of my letter, No. 29,\* dated the 22d June last, I am directed by the Governor-general in Council, to forward to you the accompanying printed copy of a Supplement to Appendix of the Report of the Indian Law Commissioners therewith forwarded, dated the 15th February 1844.

Home Department,  
Legislative.  
\* Madras, No. 44.  
Bombay, No. 45.

Fort William,  
3 August 1844.

I have, &c.  
(signed) *T. R. Davidson*,  
Officiating Secretary to the Government  
of India.



(No. 1435.)

Unrecorded.

From the Under Secretary to the Government of Bengal, to *T. R. Davidson*, Esq., Officiating Secretary to the Government of India, Home Department; dated 12 September 1844.

Sir,

Judicial.

In compliance with the requisition conveyed by your letter (No. 38), dated the 3d ultimo, I am directed by the Honourable the Deputy-governor of Bengal to transmit, for the information of the Supreme Government, the accompanying copies of letters noted on the margin,\* relative to the Report of the Indian Law Commissioners on Civil Judicature in the Presidency Towns.

2d. The opinion of the Sudder Board of Revenue will be submitted when received.

I have, &amp;c.

(signed) *A. Turnbull*,  
Under Secretary to the Government  
of Bengal.

Fort William,  
12 September 1844.

From *C. W. Brietzke*, and *Russomey Dutt*, Esqrs., Commissioners of the Court of Requests, to *F. J. Halliday*, Esq., Secretary to the Government of Bengal, Judicial Department; dated 31 July 1844.

Sir,

We have the honour to acknowledge the receipt of a letter (No. 1094), from Mr. Under Secretary Turnbull, dated the 8th instant, forwarding copy of a Report from the Indian Law Commissioners, dated 15 February 1844, with a revised draft Act for establishing a court of subordinate civil jurisdiction in the city of Calcutta, and copies of a minute by Sir Erskine Perry, a letter from Sir Henry Roper, and a letter from the judges of the Supreme Court, with a minute of Sir Lawrence Peel annexed, and requesting our opinion thereon.

2. We have perused these important documents with feelings of great interest, and shall not hesitate to report our sentiments candidly on the subjects which they embrace.

3. The advantages of the administration of justice by one system of courts, with one uniform, cheap and easy procedure, and the practice of *viva voce* examination of the parties in the suit, are undeniable, but any new scheme which may be necessary to be substituted in lieu of the one in force for years, and with the workings of which the people are habituated, requires, we think, serious consideration and caution.

4. In whatever advantageous light the establishment of a subordinate court of civil jurisdiction, with one uniform system of procedure in common for all description of causes, such as generally come at present before the Supreme Court in its common law side, and the court of requests, respectively (for the sake of brevity, we shall denominate the first, "intricate cause," and the second, "simple cause") according to the revised draft Act now submitted by the Indian Law Commissioners, may appear in theory, we feel assured that its practical utility, in all respects, will be very doubtful. In a tribunal which will be required to bear and adjudicate daily upwards of 200 "simple causes," and also causes of small amount generally, an intricate, cumbrous and dilatory procedure, and we must confess that the procedure prescribed in the draft Act, though less dilatory and expensive, and more efficacious than the existing procedure of the Supreme Court, still appears to us intricate, cumbrous and dilatory, as respects those descriptions of causes, is more likely to defeat the ends of justice than to facilitate its administration. What, in our opinion is highly desirable in such a court is, that its procedure be simple and easy; its judges be able (at least in small cause suits) to communicate with and understand freely, and without any intervention, plaintiff, defendant and witness; and that it may be reached easily by all classes of suitors. And in case it should be found necessary to establish two separate courts

\* From Commissioners Court of Requests, dated 31 July 1844; from Registrar to Sudder Court, No. 1267, dated 23d ultimo, with Enclosure.

courts for the adjudication of causes, of small and large amount, the jurisdiction of each court, we think, should be clearly defined.

5. Having premised thus much, we shall proceed to offer such observations on the different sections of the draft Act for the new court, as may appear to us necessary to elucidate our views.

6. We regret that we differ somewhat in opinion with the Indian Law Commissioners in two of the most fundamental points upon which this Act is based, and also in some minor points, as far as they are applicable to the "simple causes" and causes of small amount generally; and we regret this the more because our opinions, we believe, do not coincide with those of the most enlightened jurists.

7. The points of difference we allude to are—First, The institution of all suits on an ex-parte examination of the plaintiff before one of the judges, who is to be at liberty to grant summons, or reject the application at his discretion; and, secondly, the application of one uniform system of written procedure in common to all description of intricate and "simple causes" for large and small amount.

8. We are by no means admirers of the system of previous examination of the plaintiff, nor of allowing process to be issued without some deposit of institution fee by him.

9. On the first head, we think, in "simple causes" suits, as well as small amount cause suits generally, such a procedure will not only be dilatory, but highly unsatisfactory, and in some instances injurious to suitors.

10. It would not be out of place to mention here a remarkable fact, which often occurs in the court of requests. A defendant in a suit against whom a verdict may have been pronounced, sometimes honestly, and sometimes designedly, supposes himself aggrieved. He presents a petition to the commissioners praying a summary reconsideration of the case, and is told that his prayer cannot be complied with summarily; but he may, in conformity to the rules of the court, institute a cross suit for a rehearing, after depositing the amount of debt and costs decreed against him. He does so; and if upon the second investigation the former decree is confirmed, and his cross suit dismissed, he invariably says to the commissioners, "you have directed me to institute this suit, and how can you now dismiss it, and cause a heavy loss to me by costs?" Now, when such is the impression in cases like this, what will be the impression and feeling of the suitor on a verdict being pronounced against him, in a suit, the institution of which in a manner has been previously sanctioned by the court. And in the same manner a suitor will be very much dissatisfied on being summarily and abruptly dismissed, merely because the commissioner who holds the pre-examination upon a summary ex parte inquiry, should be of opinion that there was no cause of action. It is not an unfrequent occurrence in the court of requests, that the plaintiff in the opening of his case, either by reason of ignorance or timidity, is unable to state it so clearly as to satisfy the commissioner that there was a good cause of action; but the defendant, on being interrogated, either at once confesses judgment, or admits that there was once a cause of action, but it is now voided by subsequent or other matter.

11. Nay, more, it happens daily that some cases must necessarily be heard ex parte. The plaintiff appears and proves the service of the summons and the attachment, either at the defendant's house or personally. He then proceeds to call his witnesses, and to produce his books; these are all carefully examined and cross-examined. Doubts arise in the mind of the sitting commissioner as to the justice of the claim; perhaps a material witness is absent from Calcutta, whose presence would clear up the matter. The plaintiff is therefore directed to issue out a second attachment against the defendant, with a view to bring him before the court to plead, returnable in one month, and to produce the witness he requires. On the defendant appearing, and being confronted with the witness, he instantly confesses judgment, and prays for time to pay the debt by instalments. Neither can we omit stating here, that on hearing both parties and examining their witnesses, it sometimes turns out that the plaintiff's claim has been liquidated in full, and that really he had none at the period of instituting his suit.

12. These facts indicate, we think, one thing, the extreme difficulty of conducting correctly a pre-examination of the plaintiff's claim, and the impossibility of obtaining all particulars, so as to enable the most acute judge to say whether a good cause of action exists. Indeed, in whatever light we view this subject, it appears to us fraught with serious objections.



13. On the second head, we think the system of allowing suits to be instituted without deposit of some costs, would encourage fraudulent litigation, and be oppressive to honest men, without an equivalent chance of reimbursement of the expenses of judicial establishment by a levy of a fee against the losing party. Our letter, dated 10th September 1840, conveys fully our views upon this subject, which subsequent experience has rather strengthened; and as they so fully coincide with those recorded by the honourable H. T. Prinsep, in a minute dated 17th September 1842, we have taken the liberty to copy it in the margin.\*

14. We are therefore of opinion that, at least in all small cause suits, plaintiffs should be allowed to obtain process without any previous inquiry, or any other restraint than the deposit of an institution fee, and that it should be a fixed rate of per centage upon the sum sued for.

15. The minor points of difference alluded to by us are,

1st. The strict application of one uniform procedure to all description of causes; and,

2dly. Presence of a jury.

16. Section 10 treats on the manner of commencing suits, and sections 11, 12 and 13, on pleadings. The plaint is to be reduced in writing, and we presume the pleadings also. Such procedure, we fear, will be dilatory, perplexing and vexatious to, and in many instances out of the reach of the small amount cause suitors generally, and the business of the court will fall into arrear, unless a large number of commissioners were appointed to keep pace with it. We apprehend, however, that the latter arrangement will not only be expensive, but inconvenient. We are therefore of opinion, that no written plaint or pleading in detail should be required from the small amount cause suitors generally, but that they should be all oral, and the result only, and not the details, should be noted down by the presiding commissioner, or an officer of the court under his immediate direction.

17. Under sections 8 and 9, provision is made for a jury, but "their verdict shall only be for the information of the conscience of the court." We do not anticipate any beneficial result from this imperfect provision. Generally speaking, a jury in a civil case, we think, makes the machinery of justice unnecessarily cumbersome and unwieldy.

18. In reference to the appointment of the commissioners of the new court, alluded to in the 2d, 3d and 4th sections, we observe the following note appended at the bottom of page 4 to the Law Commissioners' Report:

"The only qualification we have introduced into the Act for the professional commissioners is, that they shall be barristers of five years' standing. Under this provision, the judges of the Supreme Court might, of course, be employed in administering justice in the new court; but if they should not be so employed, the suitors will have the ready means of obtaining the benefit of their learning, under the scheme which we are recommending by appeal to the College of Justice."

19. And we are of opinion that it will not only enhance the dignity of the new court in the eye of the suitors, but the court will possess their confidence much more, especially in respect to the decisions of legal points, if the judges of the Supreme Court were made ex-officio commissioners, as proposed in the draft Act read in Council on the 23d November 1843. An addition to section 2 appears

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\* "The judge is left at his discretion, in decreeing a cause, to adjudge against the losing party a fee, to be realized in part relief of the cost of the judicial establishment. I have heretofore pointed out, that this method of reimbursing Government will never answer, for whose business will it be to pursue the debtor and exact the amount so adjudged. The order will, so far as the treasury benefits, be mere waste paper; and, at any rate, will be realized so irregularly as to make the law tax unfair as it will be unpopular.

"The principle, as it seems to me, on which Government is entitled to demand fees, is that courts and judicial officers are only resorted to for the compulsory enforcement of debts, when the creditor cannot realize by his own means; for the aid he asks he expects, and is of course willing to pay, looking to recovery from the unwilling debtor, if his means shall suffice. The Government is, in this respect, like an arbitrator or referee, who always is paid before he lets the award out of his hands, leaving the after recovery to be adjusted as part of the subject of arbitration. If any fee at all is taken to reimburse the charges of judicial establishments, it should be taken as the condition of affording the aid of court by the issue of the first process. The Government never was, nor can be, a successful enforcer of decrees. The result would probably be to fill the gaols with Government debtors, entailing further charges on Government, and yielding nothing."

appears to us necessary; namely, "that separate sittings may be holden before different commissioners at one and the same time, at any convenient place within the town of Calcutta."

20. No comments appear necessary on sections 1, 5, 6, 7, 15, 16, 22, 23, 24, 25, 26, 27, 28 and 29.

21. The section 14 appears to us ambiguous. Sections 17, 18, 19 and 20 relate to fees. We have already expressed our opinion on this point in the 8th, 13th and 14th paragraphs; and we beg now only to add, that it appears to us advisable that a discretionary power should be given to the commissioners to grant process free of costs, and to remit costs, wholly or in part, to unfortunate honest suitors. Further, we think that it would be very difficult to carry into effect the provision of section 21.

22. No provision appears to have been made in the draft Act for the commissioners taking the usual oath of office, nor for executing decrees of the zillah court of Twenty-four Pergunnahs, under Act XXVII. of 1839, and taking depositions of witnesses under Act VII. of 1841, nor for the apportioning of diet money to debtors confined in execution, as at present is established by law.

23. We are of opinion that it would be beneficial if the provisions of Act XIV. of 1840 could be extended to the Hindoo and Mussulman suitors; but we apprehend that as long as 21 George 3, c. 70, s. 17, remains unrepealed, this object cannot be accomplished.

24. In conclusion, we beg respectfully to state our humble conviction that, without the modifications suggested by us, the utility of the Act now recommended by the Indian Law Commissioners in respect to the adjudication of all causes of small amount generally, appears to us very doubtful, and that the draft Act, read in Council on the 23d November 1843,\* for the establishment of a "small cause court," by the provisions of which, in cases of legal difficulties and doubts, the opinions of the judges of the Supreme Court as ex-officio commissioners are made available, appears to us better suited for the adjudication and disposal of causes of small amount generally, than the one now recommended, notwithstanding that the former establishes a separate court for this class of causes.

\* *Vide* the Draft Act (the last of these Papers), p. 116.

We have, &c.

(signed) *C. W. Brietzeke,*  
*Russomoy Dutt,*  
Commissioners.

Court of Requests,  
31 July 1844.

(True copy.)  
(signed) *A. Turnbull,*  
Under Sec. to the Gov<sup>t</sup> of Bengal.

(No. 1267.)

From the Register of the Sudder Dewanny Adawlut, to *F. J. Halliday, Esq.*,  
Secretary to the Government of Bengal; dated 23 August 1844.

Sir,

I AM directed to acknowledge the receipt of your letter (No. 1092) of the 8th ultimo, with its accompaniments. Sudder Dewanny Adawlut.

2. In reply, the majority of the court desire me to observe, that these papers refer exclusively to the common law and equity jurisdiction of the Supreme Court, on which they feel themselves unable to offer any opinion. Present: *R. H. Rattray, C. Tucker, J. F. M. Reid and A. Dick, Esqrs.* Judges.

3. A minute, recorded by Mr. Dick on the subject, is herewith forwarded.

I have, &c.

(signed) *J. Hawkins,*  
Register.

Fort William,  
23 August 1844.

No. 1.  
On Civil Judica-  
ture in the  
Presidency Towns.

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MINUTE on the Report of the Indian Law Commissioners upon Judicature in the Presidency Towns.

BEING called upon by the Government to give my opinion on the above Report, I have read it with the utmost attention and a lively interest.

The larger portion of the Report is dedicated as a preliminary step to a most interesting, elaborate and successful defence of the comprehensive views entertained by the great Lord Mansfield, and the learned Justice Buller, on the propriety of courts of law granting relief in every instance in which a court of equity would eventually give it. Sir William Blackstone seems to have entertained a like opinion, when he declared, "It were much to be wished, for the sake of certainty, peace and justice, that each court would, as far as possible, follow the other in the best and most effectual rules of attaining those desirable ends. And sure there cannot be a greater solecism than that in two sovereign independent courts established in the same country, exercising concurrent jurisdiction, and over the same subject-matter, there should exist in a single instance two different rules of property, clashing with or contradicting each other:" and a little further on he speaks of "two separate jurisdictions now existing in England, but which never were separated in any other country in the universe."—Com. III., 441. Such sentiments, it will naturally be expected, must meet with a ready concurrence from a Company's judge, who has been in the habit during thirty years of granting in one and the same courts whatever relief law, equity and good conscience could administer. The fact is, the separation of the two systems of law and equity in English judicature was purely fortuitous, and originated from nothing in the nature of the things, as is evidenced by its non-existence in any other country in the universe; therefore its introduction into a new system of judicature may at once be negatived without hesitation: were, however, the question the rooting up of the separate system from English judicature, the growth of ages, the culture of the brightest intellects, and the profoundest learning, the boldest reformer might pause trembling! Where both systems exist, as in the Supreme Courts of the Indian Presidencies, both may be extensively reformed and improved, as shown clearly in Sir Lawrence Peel's minute, and yet preserved distinct. There is perhaps more than plausibility in the following opinion: "The power which the superior courts of equity possess in certain cases to correct and amend the law, nay even control its administration by other courts, is most beneficial, as in the instance of issuing injunctions, which peculiarity in the English system of jurisprudence, by keeping the provinces of law and equity distinct, preserves to the courts of common law those advantages of simplicity and precision which they could not enjoy if their established forms of proceeding were suffered to bend to and be modified by the equitable circumstances of each particular case, whilst at the same time the intolerable inconvenience which must arise from a too rigid adherence to rules too narrow to embrace complicated questions is obviated, by the institution of a court empowered "to supply what is defective, and to control what is unintentionally harsh in the operation of general principles."

2. The aim and end of the Report is the establishment of a subordinate court for Calcutta, to be governed by equity and good conscience, following the law, that is, by English law and English equity. In this respect it would, in a great degree, accomplish the wishes of two great luminaries of the law, Lord Chief Justice De Gray, "who never liked equity so much as when it was like law," and Lord Mansfield, "who never liked law so much as when it was like equity." It would go far to unite the truth and justice of equity with the cheapness and expedition of law. Appeals are to lie from this court to the College of Justice. If the court is to follow English law and English equity, I would, with due deference, suggest the propriety, nay, necessity of restricting the appointment of all the commissioners to members of the English legal profession; and the Judges of the College of Justice to Queen's judges. They alone will be virtually the judges, for no non-professional commissioner, nor any of the Company's sudder judges will presume or venture to differ from their learned colleagues. Sir William Blackstone thus speaks of English equity: "The system of our courts of equity is a laboured connected system, governed by established rules, and bound down by precedents from which they do not depart, although the reason of some of them may perhaps be liable to objection."—Com. III. 433. Again, "The system of jurisprudence in our courts, both of law and equity, are now equally

equally artificial systems, founded on the same principles of justice and positive law."—Com. III. 434. And again, "A set of great and eminent lawyers who have successfully held the Great Seal, have by degrees erected the system of relief administered by a court of equity into a regular science, which cannot be attained without study and experience any more than the science of law."—Com. III. 1844. Would it be wise, would it be just to expect any man, however well and liberally educated, and naturally endowed, to administer on two such complex sciences, justice and equity without study professionally and without experience.

3. It is proposed that the pleadings be oral, and reduced to prescribed form by the judge. The evils of this have been well pointed out by Sir H. Roper, and forcibly demonstrated by Sir Lawrence Peel. It appears in Sir Erskine Perry's minute, that the experiment has been tried at Western Australia and at Singapore, with what success is not stated. If civil causes could be tried like criminal ones, plaintiffs, defendants, witnesses and proofs all present, and decided off hand, no doubt much expense would be saved, and incalculable vexation prevented. This course might do for very simple cases, and of very limited value; in complex cases it would certainly fail; and in important cases off-hand justice would too frequently be cruel injustice; cheap articles are too often painfully dear. Sir H. Roper says, the oral system would annihilate the bar; and Sir Lawrence Peel, that it would deteriorate the bench. How deplorable would be the consequence of either evil. Both have shown how the superfluous expenses and delays of pleadings might be curtailed, and the benefits fully preserved. In estimating English jurisprudence we must not look to pounds, shillings and pence only. Its moral effect on the constitution, on the nation, and on every country and people to which its influence extends, should ever be in view. To what mainly do Englishmen owe their freedom and their independence? To their laws, and their righteous administration. To what do judges owe their profound learning, their acute intellects, their patient bearing and research, their incomparable probity and impartiality? To the learning, the astuteness, the untiring assiduity, the watchfulness, the honesty and the independence of the English bar—the true bulwark of England's freedom. The English bar should, therefore, I would strenuously urge, be fostered and encouraged in its genuine inherent qualities in every British colony. There is another consideration, I humbly conceive, which should not be lost sight of in legislating for a colony: every tie that closely connects it with the mother country is valuable, and nothing is so strong as a country's laws and its judicature. These should, therefore, be preserved as similar as possible.

4. With reference to the expression in the Report, that the Presidency courts should be made fit models for the mofussil courts, which should be taught not only by precept, but by example,—I will take leave merely to observe, that the Cornwallis system of judicature is well calculated for the Company's courts, and the circumstances of the country, and our singular rule: it was founded, I believe, partly on the English and Scotch systems, and partakes of a great deal of what is good in them, free from much that is bad in the way of unnecessary technicalities, verbosity, expenses and delays: it has suffered much since its first institution by heedless reforms, though improved in some respects: if administered by judges properly educated and trained up by successive advancements; and the bar of pleaders well cared for, and the pleadings reduced to more simplicity and precision, I believe it would prove excellently adapted for the wants of the Indian community, and tend to promote liberty and honesty of feeling. The Regulation code, especially of 1793, is so clearly interwoven with proprietary rights in land, that it must at all events be preserved in its integrity.

Sudder Dewanny Adawlut, Calcutta,  
19 August 1843.

(signed) *A. Dick.*

(A true copy.)

(signed) *W. Kirkpatrick*, Deputy Register.

(A true copy.)

(signed) *A. Turnbull*,

Under Secretary to the Government of Bengal.

No. 1.  
On Civil Judica-  
ture in the  
Presidency Towns.  
Unrecorded.

(No. 1599.)

From the Under Secretary to the Government of Bengal to *T. R. Davidson*, Esquire, Officiating Secretary to the Government of India, Home Department; dated 16 October 1844.

Sir,

Judicial.

WITH reference to your letter, No. 38, of the 3d instant, I am directed by the Right honourable the Governor of Bengal to forward, for submission to the Supreme Government, the accompanying copy of a reply, dated the 4th idem, from the Commissioners of the Court of Requests, regarding the letter from Sir Erskine Perry to the Government of Bombay, printed in the Supplement to the Appendix of the Report of the Indian Law Commissioners.

I have, &amp;c.

(signed) *A. Turnbull*,

Fort William,  
16 October 1844.

Under Secretary to the Government of Bengal.

From the Commissioners of the Court of Requests to *F. J. Halliday*, Esquire, Secretary to the Government of Bengal, Judicial Department; dated 4 October 1844.

Sir,

WE have the honour to acknowledge the receipt of a letter (No. 1474) from Mr. Under-secretary A. Turnbull, dated the 16th ultimo, forwarding, for our observations, two printed copies of a letter from Sir Erskine Perry to the Government of Bombay, dated 22d May 1844, as a Supplement to the Appendix of the Report of the Indian Law Commissioners, sent to us with the despatch (No. 1094) of the 8th July last, and beg to say in reply, that, having attentively perused the paper now transmitted, we do not see any reason to alter our views, as expressed in our letter of 31st July last, and consequently we have no additional observations to offer on the subject under consideration.

We have, &amp;c.

(signed) *C. W. Brietzeke,*  
*Russomoy Dutt.*

Court of Requests,  
4 October 1844.

Commissioners.

(True copy.)

(signed) *A. Turnbull*,  
Under Secretary to the Government of Bengal.

Unrecorded.

From Sir *H. Roper*, Knight, Chief Justice of the Supreme Court of Bombay, to the Right honourable the Governor General in Council, &c. &c. &c.; dated 10 January 1845.

Honourable Sir,

THE Government of Bombay informed me in October last, that the Government of India requested to have the opinions of the judges of the Supreme Court at Bombay, respecting the Report of the Law Commissioners, dated the 15th of February 1844.

Shortly after I had begun to write upon the subject, interruptions arose from private matters, and immediately afterwards a term and a session occurred, so that I was unable to conclude writing the observations I have now the honour to transmit, until the middle of December, since which period much time has been lost through the dilatoriness of the person employed to copy what I had written.

I have, &amp;c.

(signed) *H. Roper*.

Bombay,  
10 January 1845.

As

As the judges have been requested to give opinions on the Report of the Law Commissioners, dated the 15th of February 1844, it is scarcely open to me to say, that my opinion is expressed in my letter of the 4th of August of the previous year, which, as forming part of the Supplement to the Report, has already been submitted to the Government of India. That letter commented on Sir Erskine Perry's suggestions for changing the mode of administering justice, and therefore has reference to the Report, in which similar plans and opinions are proposed and advocated. When the letter was being written, I had no reason to suppose there was any such unanimity between Sir Erskine Perry and the members of the Law Commission; and it appeared to me that the Commissioners had not invited any discussion of the subject; I therefore limited myself to a few general observations, and when afterwards aware that Sir Erskine Perry's minute had been favourably entertained, I was glad to find the judges at Calcutta had canvassed it more fully, and it might be sufficient for me to say, that, with some slight qualification, I concur in their opinions, as expressed in the minute of Sir Lawrence Peel, dated the 13th of February 1844.

Sir Erskine Perry's minute, and his subsequent letter of the 22d May, are auxiliary to the Report, together with which they have been printed, and they are obviously relied on as supporting or confirming the latter. I shall therefore controvert certain positions in the minute and letter to which I cannot assent, and some of which have, I think, a tendency to prevent a dispassionate consideration of the subject; but I shall first point out a minor inaccuracy which cannot affect the general principles contended for. In the 48th paragraph of the minute it is proposed, that by an Act of the Government, the interest on unclaimed estates in the hands of the ecclesiastical registrar be applied to the maintenance of the projected court. An Act of the Government could have no such effect, for in default of legatees, next of kin and creditors, those funds are the property of the Crown. If it were notified, not merely in the London Gazette, which few people read, but also in the principal newspapers of London, Dublin and Edinburgh, that such estates are still unclaimed, the Crown and other parties entitled might become apprized of their rights, and claimants to the eight lacs in question might speedily appear.

An impartial inquiry into the merits and demerits of the Supreme Courts can hardly be obtained in India, where each of those courts, from its establishment, has been viewed with jealousy by local rulers and members of the civil service of the East India Company, forming the most influential classes of the community. The difficulty is increased when, as in the present instance, the discussion is chiefly carried on between judges of those courts on the one hand, and upon the other the Law Commission, consisting, very differently from the original intention of the Legislature, of three members of the civil service, and one gentleman whose professional practice had terminated long before his arrival in this country. Further difficulties have arisen from the institution of comparisons between the Supreme Courts and those of the mofussil, to the disadvantage of, and with highly coloured views of the defects of the former; and from a representation that different forms of process for matters of civil, criminal, legal, equitable, ecclesiastical or admiralty cognizance, were adopted in the Supreme Courts, because Sir Elijah Impey, and the other judges first appointed to the bench at Calcutta, were under temptation "to form a costly establishment, with a number of offices, to which the different codes of practice were to afford fees, and of which the founders were to have the patronage." These comparisons and positions, if undisputed, might be held undisputable; and I shall first apply myself to the imputation upon Sir Elijah Impey and his colleagues.

I know not whether their respective circumstances exposed the judges who first sat upon the bench at Calcutta to the alleged temptation, or whether, in exercising their patronage, those judges afforded reason to believe that offices in the court had been created from unworthy motives. When we consider, however, what has occurred in the United States of America; if we do not see reason to doubt the expediency of administering law and equity by the same modes of procedure, we may at least hesitate to ascribe dishonest views to the first judges of Calcutta, because in their court, law and equity and other branches of jurisprudence were kept separate, being administered by different modes of procedure, as in England.

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ture in the  
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Mr. Justice Story says: "In nearly all the states in which equity jurisprudence is recognized, it is administered in the modes and according to the forms which appertain to it in England; that is, as a branch of jurisprudence separate and distinct from the remedial justice of courts of common law. In Pennsylvania it was formerly administered through the forms, remedies and proceedings of the common law, and was thus mixed up with legal rights and titles, in a manner not easily comprehensible elsewhere. This anomaly has been in a considerable degree removed by some recent legislative enactments. In some of the states of the Union, distinct courts of equity are established; in others, the powers are exercised concurrently with the common law jurisdiction, by the same tribunal, being at once a court of law and a court of equity, somewhat analogous to the case of the Court of Exchequer in England. In others, again, no general equity powers exist; but a few specified heads of equity jurisprudence are confided to the ordinary courts of law, and constitute a limited statutable jurisdiction."

In the tribunal above described as analogous to the Court of Exchequer in England, equity is administered in the same manner as in the Supreme Courts in India. One object of the Report is to have equity administered, as formerly in Pennsylvania, through the same forms, remedies and proceedings as the common law, if not through "the forms, remedies and proceedings of the common law." Whether equitable and legal rights and titles might not thus become "mixed up in a manner not easily comprehensible elsewhere," may be worthy of consideration, especially as legislative enactments have been required to check such evils in Pennsylvania, inhabited by a shrewd people, fully awake to their own interests, and amongst whom equity jurisprudence had no existence till 1790, long after Pennsylvania had ceased to be subject to the British crown. Indeed, it is worthy of remark, that in several of the countries now included in the United States, there was no equity jurisprudence whilst they continued colonies of Great Britain; but at present there are few states in which it has not been adopted; and in nearly all the states in which it now exists, it is administered in the like modes and forms as in England, separate and distinct from the justice of courts of common law. And this state of things has been established since the revolution. In Pennsylvania, where equity jurisprudence was according to the system contended for by the Law Commissioners, legislative remedies for that system have been resorted to. What the evils and remedies were, I have at present no means of ascertaining; for I have but one or two books relating to American law. I find the equity jurisprudence of Pennsylvania in question in the case *Sims Lessee v. Irvine*, in the Supreme Court of the United States in the year 1799, and again in *Hollingsworth v. Fry*, in the Circuit Court, Pennsylvania district, in the year 1800. In the last case, Mr. Paterson, a judge of the Supreme Court, said: "There is a strange mixture of legal and equitable powers in the courts of law of this state. This arises from the want of a distinct forum to exercise chancery jurisdiction, and therefore the common law courts *equitise* as far as possible." But neither of those cases discloses the nature of the evils alluded to, and I now merely rely on what has occurred in the United States, as ground for doubting whether Sir Elijah Impey and his brother judges were actuated by sordid views, in keeping law, equity and other branches of jurisprudence separate at Calcutta, and administering them by different modes of procedure, as in England.

Under the charter of the Supreme Court at Calcutta, it was imperative on judges to administer justice in its several branches according to modes and forms analogous to those appropriated to them respectively in England. After prescribing the mode of procedure in actions at law, in general terms, the charter provided that the court should be a court of equity, and administer justice in a summary manner, "as nearly as might be, according to the rules and proceedings of the High Court of Chancery." Criminal justice was directed to be administered in such or the like manner and form, or as nearly as the condition and circumstances of the persons and the place would admit of, as courts of oyer and terminer and gaol delivery did or might in England; and with respect to the ecclesiastical and admiralty jurisdictions, a slight conformity to modes of procedure in use in the analogous jurisdictions of England was enjoined. A passage from Sir Elijah Impey's convincing speech at the bar of the House of Commons, on the 4th of February 1788, is prefixed to the copy of the charter inserted in the first volume of the Rules and Orders of the Supreme Court,



Court, &c., edited by Mr. Smoult and Mr. Ryan. It thence appears, that the draft of the charter in question had been perused by Lord Thurlow, altered by Lord Loughborough, revised by Lord Walsingham and Lord Bathurst, and commented upon by them all respectively, when in office. We may conclude that they approved of the provisions of the charter, and that the judges of Calcutta, in organizing the court, could not have disregarded the opinions of such men.

It would be misapprehension to suppose that such evils as are exemplified by the statement of the case of *Poonjee Caunjee v. Abdool Ruheem Khan*, in Sir Erskine Perry's minute, sec. 18, are of common occurrence under the present system of equity jurisprudence at Bombay. The bill was short, and might have been answered within less than 15 weeks; but there may have been overtures for peace in the interim, and it does not appear when the counsel and attorneys respectively received their instructions. A person employed to copy the interrogating part of the bill, not seeing the usual words, "whether, and how otherwise," in that part by which, in case assets should not be admitted, it was required that an account should be set forth, altogether omitted copying that passage, and hence the answer was defective, in not setting forth an account. Within 12 days after the exception had been taken, the further answer was put in. The cause might have been heard in the next term, and without any evidence being taken; for the defendant's answer admitted the complainant's claim, but denied assets. The complainant, however, successively filed two amended bills, each so copious as to require a new engrossment. The object was to extract full accounts, independently of proceedings in the Master's office. Notwithstanding the authority of *White v. Williams* and *Leonard v. Leonard*, and that class of cases, it appears to me that such a course should be wholly disallowed. There was nothing analogous to it in the old action of account, which the judges at Calcutta now propose to restore, thus impliedly consenting that, to some extent, the system I object to shall be discontinued.

Two years elapsed after filing the rejoinder before the case was brought to a hearing, when a decree for an account was taken by consent. The delay, I conceive, could not have occurred, had the plaintiff been determined to speed the cause; but he may have been influenced by the following motives, to which a gentleman who, as acting master in equity, became acquainted with the suit, assured me that much delay in the Master's office was attributable. The defence was, want of assets, and this gentleman informs me he understood that the complainant, apprehending the defence might be made good, if the account were taken immediately, deferred proceeding, in order that further assets might be got in, and that interest upon the amount already received might accumulate. There are circumstances consistent with this view of the matter; for when the answer was filed, a large portion of the assets (9,051 rupees) ultimately received, had not been recovered by the executor. The complainant did not bring the decree into the Master's office until more than three months after its date, and from that time up to January 1838, a period of nearly two years, only 11 effectual meetings were had before the Master, whereas the complainant might have taken out as many warrants as he pleased. From the 12th of April 1840 to the 10th of February 1841, that is to say, in a period of ten months, there was only one attendance at the Master's office. Some delay may have arisen from the gentleman who was Master in 1836 having become insane. Another gentleman was appointed to act for him till he resumed his office in, I think, 1837, but he soon became ill again, and was obliged to relinquish his appointment.

To me it appears, not only that the case is peculiar, but that the description of it in the minute is somewhat coloured, for we therein find a period of above twelve months, which it is said elapsed between a demand for payment and the filing of the bill, put forth as a portion of the law's delay. The minute also is inaccurate as to some of the particulars of the case. It is said, "the plaintiff having a claim against the testator of between 2,000 and 3,000 rupees, applied to the defendant for payment of his debt, and at all events for an account of the testator's assets, but the defendant refused both one and the other. The plaintiff was therefore forced to file his bill, &c." There was no evidence of any such application for an account of the testator's assets prior to filing the bill. It is not even alleged in the bill that any such application was made. The complainant's claim was founded on a bill of exchange, drawn in his favour upon the testator. It was



stated in the bill in equity, that the testator accepted the bill of exchange as security for the drawer, and also that the testator paid to the complainant a small portion of what was due upon the acceptance, and that after the testator's death the defendant had accounted with the drawer, and had been credited in, or had received value for the full amount for which the testator had become liable by the acceptance. But there is not a word in the bill of any prior application for an account of the testator's assets. After alleging, as a pretence, on the part of the defendant, his declaration that he had no assets, the usual charge to the contrary is added in these words, "Whereas your orator charges the contrary thereof, and so it would appear if the defendant would set forth as he ought, but which he refuses to do, a full, true and particular account, &c." Even this charge was not admitted by the answer, in which the defendant fully admitted the plaintiff's claim, and offered to account for the assets.

It is said in the minute that the answer was excepted to, and on argument a further answer was ordered. The origin of the exception I have already mentioned. There was no argument of the exception. No order for a further answer was made, and within twelve days after the exception was put upon the file, the further answer was put in; circumstances tending to show, as the fact was, that the omission had occurred through the oversight of the defendant's counsel. After nearly three years litigation the complainant took, by consent, the same decree which he might have had upon bill and answer within the first five or six months.

It is said in the minute, "a long litigation of nearly four years took place on these points in the Master's office, when a report was presented altogether against the defendant. This report was excepted to by the defendant, but all his objections were overruled." It should have been added, that owing to an error of the Master, the defendant was charged with 17,263 rupees too much. Had that error not occurred, the testator's estate would have been found indebted to the defendant, whose defence, want of assets, would thus have been established. It was ordered, on further directions, to the effect that the error should be rectified, and, with a view to costs I presume, that the Master should inquire and report whether certain property received by the defendant, had been fairly brought to account. The defendant in an account annexed to his answer, and in another account filed in the Master's office, had given credit for considerably less than the just amount, the Master therefore reported, that the defendant had not fairly brought to account the property in question. Exceptions were taken but overruled. Finally, it is said in the minute, "a decree on all points raised by the defendant, was made against him, when a further controversy was raised by him as to his own liability to costs, on the ground of being an executor." The cause had come on upon the exceptions and for further directions, and the exceptions being overruled, the only points remaining, were, whether the defendant had made out his defence, want of assets, and who should pay the costs of the suit. The estate was found indebted to the defendant in 884 rupees; so the result of the suit as to the principal point, want of assets, was decidedly in his favour. Still he was ordered to pay to the complainant all the costs of the suit, and, as he had acted dishonestly in filing false accounts, I think, if the court had power to do so, it exercised a sound discretion in ordering him to pay the costs. In *Robinson v. Elliott*, 1 Russell, the result of the account in the Master's office, was, that there were no assets unadministered, but the executrix was charged with more than she had admitted in her answer, and therefore, although the bill against her was dismissed, it was dismissed without costs. The case before Sir Erskine Perry was much stronger. In *Nicloson v. Wordsworth*, Lord Eldon intimated, that where a bill is dismissed, a defendant may be ordered to pay the costs; and see *Mortimer v. Orchard*, before Lord Loughborough, and *Anon.*, 4 Madd. 273. In this country the courts exercise a very wide discretion in such matters, but I am not aware of any exact precedent for the order in question, and therefore feel no surprise at there having been a controversy as to the liability of the defendant.

In my letter of the 4th August 1843, I expressed opinions that stagnation in the China trade and in mercantile affairs in general, had latterly caused litigation to decrease; that such effect was temporary, and that there was then nearly as much business in the court at Bombay as there had been at any time during the ten preceding years. This view was in no respect refuted by the  
schedule

schedule of cases heard and actions tried during the years 1840, 1841, 1842, annexed to Sir Erskine Perry's minute. In the 4th paragraph of the minute, that schedule is referred to as showing the amount of business in the court. In the 6th paragraph, it is said, that although the number of suits in the mofussil courts is annually increasing, those in the Supreme Court decline in a like ratio, and in a note upon the latter statement it is said, "The number of complaints filed on the common law side of the court, have fallen off 20 per cent, during the last three years, as taken on an average of the preceding ten years." It follows that the schedule thus adduced as evidence of the small amount of business in the court, had merely reference to that period in which there had been the least business during the thirteen preceding years; and so far from there having been evidence of an annual decline of business, the schedule showed that the amount of business in the year 1842, exceeded that of either of the next two preceding years. In fact, the schedule tended to establish my belief, that interruption of the China trade had caused a decrease of litigation, and that such effect was merely temporary. The opium was surrendered in March 1839, and in the Dewallee of that year scarcely any accounts were adjusted. European and native merchants exerted themselves to induce creditors in the bazaar to show forbearance to their debtors, as was in evidence before the Committee of the House of Commons appointed to inquire into the surrender of the Opium. Hence in 1840, the first year to which the schedule referred, there was but little doing; there was but still less in the following year, but towards the end of that year the trade was to some extent resumed, and it became certain that compensation for the opium would be granted, and accordingly in 1842, law business considerably increased. It had still further increased when my letter of August 1843 was being written, and it may be concluded, that a further improvement has taken place, inasmuch as the first three terms of the present year have been insufficient for the transaction of business, and sittings after each term have been required.\* My opinion is further confirmed by that of a professional gentleman of considerable experience. He has expressed his belief that the amount of wholesome litigation in the court at "Bombay, has increased rather than diminished," adding that "much business is now kept out of the court that in former days probably would have found its way there." Above four years ago I understood from Mr. Cochrane, who had been at the Calcutta bar, that more solid business was transacted in the court of Bombay, than in that of Calcutta, where, I believe, much time was formerly occupied in disposing of demurrers, exceptions and such like proceedings, which, unless founded on some substantial question, and not upon mere points of form, have been, for several years, utterly discountenanced at Bombay. On the whole, I doubt whether at the present period judges are more occupied at Calcutta than at Bombay, especially as at the latter place three of the criminal sessions for the present year have already occupied above 52 days, with the exception of Sundays and two or three holidays, and the fourth session is yet to come. But the criminal business during the present year, has been unusually heavy, and one case occupied nine days, and another three days.

In my letter of the 4th of August 1843, I said the cost of litigation in the Supreme Courts was very great, and ought to be diminished, but the expenses incurred on the plea side of the court at Bombay are, I believe, somewhat incorrectly stated in the 8th and 9th paragraphs of Sir Erskine Perry's minute, and in the schedules to which they refer. His estimate is, "that a defended cause in the Supreme Court costs the losing party about 1,200 rupees, that an undefended cause costs about 450, and that even in causes when the defendant confesses the claim or gives a cognovit on the first opportunity he has to do so, the expenses amount to no less than 189 rupees." It appears that the number of cases from which this calculation was made, included those cases in which, owing to peculiar circumstances, such as references to arbitration, special motions, &c., extraordinary costs were incurred. Thus, although the estimate may be correct,

\* During the fourth term, which commenced and concluded after the above passage had been written, there was but very little business, and it was all disposed of in a very few days. This has been chiefly attributed, and I believe, justly, to the absence of a principal counsel, and to the illness of an attorney, who was in considerable practice. He became unable to transact business shortly before the term began, and died a day or two before the term ended.

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correct, as giving in one sense the average amount of costs in each of all the cases forming the mass of the litigation in question, it seems erroneous to intimate, as in the 9th and 22d sections of the minute, that in an ordinary action such expenses are incurred. The taxing officer has furnished me with tables and calculations upon the subject, founded on examination of the registry of bills of costs in his office for the same three years specified by Sir Erskine Perry. The officer tells me, he has taken "the cases which appear to him to determine the general and usual costs in defended causes, undefended causes and cognovits for those several years. Where the costs included arbitrations, special motions or matters of exception, they are not inserted, as the costs in such cases are special rather than general."

According to the taxing officer's estimate, corroborated by tables which accompany his statement, the cost of a defended action to the losing party is about 800 rupees (Sir Erskine Perry's estimate is "about 1,200 rupees"); the costs of an undefended action are about 192 rupees (Sir Erskine Perry's estimate is "about 450"); and where a cognovitor confession of the claim is given, the average costs have been 147 rupees (Sir Erskine Perry's estimate is "189 rupees").

The amount of fees to counsel in the defended cases from which the above estimate was made has also been ascertained, and thence it is stated that on an average, 239 rupees have been paid to counsel in a cause, leaving about 561 rupees for the remuneration of attornies on both sides, and the officers of the court.

These costs, in my opinion, are too high; but considering that during the five years including 1839 and 1843 judgments were recovered by plaintiffs in the Supreme Courts in 338 causes, defended and undefended, for the amount in the whole of 17,69,970. 2. 1½., and that the taxed costs of the plaintiffs in such cases amounted in the whole to 53,890. 3. 76, being at the rate of about three per cent. upon the sums recovered, I doubt whether there be such disproportion as is intimated in Sir Erskine Perry's minute, between the cost of suing in the Supreme Court and in the courts of the East India Company. In the latter, according to the second Bombay Regulation of 1827, section 52 and Appendix (L.), the fees to a vakeel for prosecuting or defending a suit, are three per cent. on the amount sued for, if not more than 2,000 rupees; if the amount exceeds 2,000 rupees, and does not exceed 10,000 three per cent. on 2,000 rupees of the amount, and two per cent. on the remainder; in suits for value not exceeding 20,000 rupees, three per cent. on 2,000 rupees of the amount, two per cent. on 8,000 rupees of the amount, and one per cent. on the remainder. Though the fee upon any amount above 20,000 rupees was formerly half per cent., I believe it is now fixed at one per cent. Each party is generally bound by special agreement to pay a much larger per centage to his own vakeel in the event of his succeeding; sometimes one-fourth, sometimes, it is said, one-half. I have known evidence of such agreements on two or three occasions before the Supreme Court at Bombay. The Stamp-tax on law proceedings is also very heavy.—See Bombay Regulation XVIII. of 1827, Appendix (C.), (D.), (E.) and (F.)

Suits for small amounts may be conducted at a cheaper rate in the mofussil courts than in the Supreme Court; but the larger the value sought to be recovered in the former tribunals, the greater becomes the cost, and in an extravagant ratio, especially as appeals from such courts so frequently occur. In 1834 or 1835, there was a decree against one Heerachund Bedreechund, in the Supreme Court, for upwards of 14 lakhs, and another man is now defendant in a suit in which about 14 lakhs are claimed from him. What enormous sums might be levied from parties to such suits in a mofussil court by way of charges for stamped paper, fees to vakeels and the share of the vakeel of the successful party. The Bombay Government being engaged in a suit about a village in Guzerat, producing about 12,000 rupees per annum, the case went before the Privy Council. The Government, I understand, had to pay 60,000 rupees as costs, of which perhaps one-half were costs incurred in this country. I have been furnished with the following case, which has recently occurred. Two Hindoo women disputed the right of heirship to a wealthy shroff; one of them obtained a certificate of heirship, which was confirmed by the Sudder Adawlut; the other filed a suit to annul it, and obtain possession of the property. She stated the property in dispute at one lakh (it is said to be many lakhs); the stamped paper for the plaint was therefore 1,000 rupees. The assistant judge dismissed the suit, on the statements in the plaint, without taking evidence. The costs of both parties were

were 3,941 rupees. On appeal, the judge reversed the first decree without taking any evidence, and merely annulled the certificate of heirship. The costs of both parties in that appeal were 3,186 rupees. They have a further appeal pending before the Sudder Adawlut, the costs of which will be about 2,480 rupees to the unsuccessful party, exclusive of fees to her own vakeel, and irrespective of the private agreement for bonus or per centage upon which the successful party will be liable.

I believe the expense of suing in the Supreme Court chiefly arises from the cost of office copies of the pleadings and fees to the officers of the court. If those officers were paid by the Government, as it is proposed the officers of the projected court shall be, or if compensation were given to present holders of offices, pleadings might be delivered between the parties instead of being filed. They might be handed in at or shortly before the trial or hearing, and would furnish materials for making up the record. Under such a system, the costs of suitors in the Supreme Court would be much less, I believe, than those at present incurred in the courts of the East India Company.

Of late years much has been done with a view to lessen the expense of pleading in English courts of law and equity, and much more, I think, might easily be done. In equity, all formal parts of pleadings should be excluded. Merely the legal effect of written instruments should be set forth. Answers might be confined to traversing the plaintiff's case, and stating the defendant's, and no admissions could be required in the answer, if the plaintiff were allowed to read, as admitted, whatever was not denied. Perhaps the complainant should not be permitted to anticipate the defence in his bill; anomalous pleading and much nicety and repetition would thus be avoided. The introduction of *vivâ voce* examination of witnesses in equity, and of both parties, as well in law as in equity, would at once abolish the preparing interrogatories for witnesses, and the interrogating part of the bill. Or if the *vivâ voce* examination of parties be held inexpedient, they might be examined on interrogatories founded on the bill and answer. If, however, *vivâ voce* examination were adopted, the same precise statement of matters of evidence, at present usual in the bill and answer, should be no longer requisite, and thus much benefit might result to the parties.—*See Hall v. Maltley*, 6 Price. Cross bills might thus be abolished, and a defendant in equity might be permitted to ask the court to declare instruments sued on, fraudulent, and to order them to be cancelled. Several other changes might be suggested.

The expense of litigation probably operates, not progressively, or in causing a gradual or annual decrease of business, as seems to have been supposed, but by prescribing limits proportional to the value of matters in dispute, so as to preclude having recourse to a costly tribunal for what may not be worth heavy charges for a suit. The Supreme Court is a forum unsuitable to small matters, which should be disposed of in some such court as that proposed by the Law Commissioners, more simply and less expensively organized. Courts of the latter description can also, in their manner, decide affairs of greater moment, and whether their jurisdiction should therefore be unlimited, appears to be a question arising on the Report. Unless their ability to dispense justice be fully equal to that of a Supreme Court, I conceive their authority should not be extended. No doubt such courts will be popular, for recourse may be had to them on cheap terms. In general, they will be resorted to in the first instance, to the exclusion of any more costly tribunal, charges for suing in which will not be incurred unless upon appeal, if permitted, from alleged erroneous decisions of less expensive courts. It is proposed to allow an appeal from the court of the Law Commissioners, but how greatly is a right prejudiced by an erroneous decision in the first instance. How difficult does it then become to obtain justice by appeal. There is usually a disposition in the Superior Court to uphold the judgment already given, which must have considerable effect even when the case is tried *de novo*, and where credit to any extent is given to the inferior tribunal for accuracy. As to facts, how completely may points of law be swamped by an improper finding. Courts of appeal are not always, or, perhaps, often resorted to, where error has occurred, and even when applied to are but imperfectly corrective. It is therefore important to adopt means for dispensing justice as fully as may be in the first instance, especially considering the many ways in which imperfect administration of law has pernicious effects upon society. A better

description of tribunal may be costly, but the expense should be defrayed by the State or by suitors. I believe much moral and political mischief results from defective courts, and that, therefore, they should have but a limited operation. To a certain extent they have been hitherto necessary evils, for without them claims of small amount would have remained unsettled. If their jurisdiction cannot be restricted to such matters without expense to the State and to the richer classes of suitors, I still believe it consistent with the interests of the community that the State, or wealthy suitors, should bear the cost of maintaining better courts for more important affairs, having original, and not merely appellate jurisdiction. Such superior tribunals influence inferior courts in various ways, and tend to purify them not a little. Into what state would courts of requests and judicatures of that description degenerate in England, if the courts at Westminster were abolished, or what would the small cause court at Bombay in a few years become, if the Supreme Court were not within view of the judges at that Presidency and the public.

Thus, unless the forum proposed by the Law Commissioners should be better instructed, and capable of arriving more nearly than the Supreme Courts at a perfect administration of justice, I think its jurisdiction should be limited to small affairs, and that its being the cheaper court should be accounted a matter of secondary importance.

But the superiority of such a court as means of distributing justice, seems to be thought sufficiently established by several criterions. It is said, in the first place, that it would carry off the business from the Supreme Court. I have no doubt it would, for as being the less expensive court, suitors, even the wealthiest, would resort to it; they would first try their chance there, and only have recourse to a more expensive tribunal if the latter had cognizance of appeals from the former, and an appeal had become necessary or expedient, and thus matters might go on till such evils had resulted from a bad judicial system as rendered a change or remedy indispensable. If measures were taken to enable honest litigants to sue upon the same terms with regard to charges in either court, the Supreme Court might, and, I believe, would be preferred.

The unfitness of Supreme Courts for the distribution of justice is also contended for on the ground that their business gradually decreases, whilst that of the mofussil courts is annually increasing. I have already dwelt on the alleged progressional decrease of business in the former courts, and, I trust, have shown that it did not exist, and if the business of mofussil courts has increased as compared with that of Supreme Courts, it may be that such a state of things has arisen from the comparatively defective administration of justice by the former. Rights will be invaded or withheld under a very imperfect judicature, more frequently than where the administration of justice is comparatively equable and certain, and I have long believed that the common notion of natives of India being more litigious than the rest of the world has arisen, because the very imperfect judicial system under the India Company engenders litigation, which they who are blind to existing defects, ascribe to a peculiar character in the people.

The relative merits of Supreme and mofussil courts can scarcely be estimated from the quantities of business transacted in them respectively. Appeals to the Supreme Court from subordinate jurisdictions are almost unheard of, for the latter tribunals are chiefly occupied in small matters not worth the expense of an appeal. In each of the mofussil courts, except the lowest, there is much business from appeals; no slight evidence of a defective judicial system.

The leading or principal natives at Bombay are greatly averse to appearing as litigants, which they seem to consider as a disgrace. During the last September term, there was an important case respecting a ship called the "General Wood," which would have been kept back had not an English merchant consented to appear as sole plaintiff on the record; several natives were joint owners, but declined to let their names appear. I am not aware that such feelings have much influence in the mofussil.

Chief members of the native community at Bombay seek to acquire importance as patrons or protectors, and to this end are much employed in inducing litigants to accept their mediation. Much apprehension of their displeasure is apparently felt, and considerable sacrifices are made to propitiate them. With that

that view in a recent case, a party compromised for a sum of money an indisputable claim to a much larger amount, full payment of which could have been easily enforced.

The Supreme Court gives little encouragement to fraudulent or frivolous suits, a description of business which, I have been told, is rife in the mofussil, and, by the advice of both branches of the profession at the Presidency, much litigation is prevented respecting matters which give employment to the provincial courts.

Lastly, the Supreme Court only exercises jurisdiction over comparatively important matters, those of minor consequence being disposed of in the small cause court and the court of requests. The zillah courts entertain the most inconsiderable suits, suits for less than a rupee.

Under such circumstances it is difficult to draw comparisons founded on the quantities of business which the courts in question respectively dispose of. I believe there is excessive litigation in the mofussil courts, and I attribute the excess to a very faulty judicial system.

Many years ago, on first arriving in this country, I also was told and swallowed much as to the excellence of provincial courts, till certain particulars from time to time came to my notice, which somewhat abated previous estimates of their merit. At length, about the year 1832, a case for opinion detailed proceedings in a suit respecting a very simple matter, which had been carried through inferior country courts into the Sudder Adawlut. In every stage such errors and improprieties were said to have been committed, that I utterly disbelieved the statement, and in writing my opinion expressed unqualified disbelief accordingly. Some months afterwards a gentleman in the civil service of the Company told me he had read the opinion, and assured me that the case had been truly stated. Such an authority left no room for doubt, and such proceedings, I am confident, could not have occurred, unless under a grossly defective judicial system. Prejudice may influence my judgment of such matters, but I rely on the opinion of others whom I believe impartial, as well as upon my own, in professing a belief that the Company's courts are unequal to the administration of justice, owing to several causes, some of which it may be useful to specify, as similar evils will, I think, affect the court of the Law Commissioners.

Civil servants who preside in the Company's courts have had no professional education or experience. Hence they imperfectly comprehend rights and wrongs involving nice distinctions, or modified or rendered complex by manifold relations arising from the business of life, and they have no power of ascertaining how, in like cases, legal principles have been previously applied. Unguided by rules of law or evidence, they are easily misguided in various ways through prejudice or passion, and being left much in their own power, they may allow others to exercise power over them. They become partisans more frequently, and when thus affected are more mischievous than professional judges, for they are less under control. It often happens that the Serishtadar has great influence with the European judge of a provincial court, especially as such judge is generally but imperfectly acquainted with the language in which the proceedings are carried on. I am told he is seldom able to read or write it without difficulty. The proceedings are therefore read to him by the Serishtadar, who also records the evidence; and although the judge may sometimes dictate the words of the decree, I understand that is not always or often the case, and the decree is almost uniformly written by the Serishtadar. What power may not that officer possess? and where the judge is ignorant, or indolent and confiding, what mischiefs may or must arise.

Sir Erskine Perry expressed his disapproval of unprofessional judges, in a minute upon the inexpediency of establishing, at Bombay, a small cause court, similar to one proposed to be erected at Calcutta in the year 1843. The minute was sent to the Government of Bombay, along with a letter I had written on the same subject, dated the 6th January 1844. It appears from the 2d and 13th sections of the proposed Act for establishing the new court recommended by the Law Commissioners, that such court will be subject to the defect in question, and that all the commissioners thereof, except the chief, may be without any legal education. Difficulties in law may easily escape the observation of an unprofessional commissioner; and it is not improbable that, in his ignorance, he may make light of them, or disregard them, especially as ample scope for self-sufficiency is provided, by leaving it dependent on his own opinion of his own



ability, whether the suit is to be proceeded with before him, or to be transferred to the chief commissioner.

On a former occasion I observed, that there is no expression of sound public opinion in India, where the presence and intervention of professional men are the most effectual, if not the only checks upon the errors and infirmities of a judge. That great benefits otherwise arise from the employment of counsel, is apparent from Sir Erskine Perry's letter to the Government of Bombay. In the 30th paragraph, he says, "The eminent advantage of such (legal) assistance is so obvious, that no one would fail to avail himself of it, when within his reach, if his rights or possessions became the subject of legal discussion." In the 29th paragraph, he says, "It is true that in such cases (where parties are not wealthy enough to employ the assistance of counsel) the court, in the absence of any forensic advocacy on either side, would often fail in discovering points material to the issue, points which the parties themselves might be blind to, and the law delivered would be frequently inferior in quality to what it would have been after hearing all that legal acuteness and industry would suggest."

In this country the advantages accruing from the employment of counsel are peculiar to the Supreme Courts; for although there are vakeels in the courts of the East India Company, they are ignorant men of very inferior station in life, and are incapable of instructing or controlling the judges before whom they practise. They are permitted to contract with their clients for additional rewards or commission in case of success, and hence they become seriously interested in the result, and are under temptation to tamper with witnesses, and to resort to other fraudulent proceedings.

In the last paragraph of my letter of the 4th of August 1843, I intimated my belief that the establishment of such tribunals as the Law Commissioners recommend, would cause the annihilation of the bar at each Presidency, or that, at all events, counsel would seldom be employed. Sir Lawrence Peel is of opinion, that such a consequence would not ensue, at least, at Calcutta, and I have no doubt that if it did not take place at Calcutta, it could not at Bombay. Sir Erskine Perry thinks the projected courts would open a much wider field for forensic talent and employment. After long consideration, I retain my original impressions about the matter, for the following reasons.

In the small cause court at Bombay, so much referred to for its supposed similitude to the court of the Law Commissioners, counsel are but little employed. Sir Erskine Perry says, "The eminent advantage of legal assistance is so obvious, that no one would fail to avail himself of it, when within his reach, if his rights or possessions became the subject of legal discussion." My experience of the small cause court leads me to a different conclusion. The dealings of many litigants therein prove them to be men of substance, and some money-dealers who often resort to it, are personally known to me, and I have no doubt they are wealthy, and yet counsel are seldom employed in that court, and very seldom indeed by those who, from frequent experience, may have acquired greater skill in the conduct of their suits. The clerk or officer of the court, if applied to, becomes agent and legal adviser to both parties, pretty much as the judges of the court of the Law Commissioners are to act. But although the agency of attorneys is thus dispensed with, it often happens that a party, distrusting the officer of the court, and reluctant to confide in one who is the confidant of the other party, employs a native lawyer to manage his case, and it is chiefly where native lawyers thus conduct the business, that counsel are retained for the trial. The chief reason for thus resorting to professional assistance may be, that although the officer of the court nominally prepares the brief, the native lawyer often adds observations or the names of witnesses, and probably extracts some additional fees for himself. This alone may induce the native lawyer to advise his client to retain a barrister, for when we find that counsel are not much employed by suitors of skill and experience, it may be doubted whether the services of counsel are so beneficial in the small cause court as in tribunals differently constituted; and the retaining of counsel in the small cause court seems but little dependent on the difficulty or simplicity of the case. In cases of some difficulty even between wealthy parties, barristers are not usually employed, whilst they are sometimes retained for the trial of very simple matters. Generally, when counsel appears, the case, however simple, lasts much longer than it would otherwise, and cannot be so summarily disposed of.

Sir

Sir Erskine Perry says, in a note to the 30th paragraph of his letter to the Government of Bombay, "The elicitation of truth amidst conflicting statements, the clear exposition of principles from circumstances," immersed in matter, "and the logical reasoning required to bring these principles within the rules of the law, are operations so immeasurably better conducted by men trained in legal science and controversy at the bar, than by the common herd of mankind, that it seems to me clear their services can never be dispensed with." To me, on the other hand, it seems clear their services will be dispensed with whenever they can be dispensed with; and that they can be dispensed with in such a court as that recommended by the Law Commissioners, and in the small cause court at Bombay. The fact that in the latter court they are, to a very great extent, dispensed with, in some degree establishes the proposition.

Professional aid is costly, and although the above-mentioned advantages arise from it, and therefore great benefit to society, yet the expense falls directly upon suitors, and will not be incurred if success can be obtained without it. The court of the Law Commissioners will be, like the small cause court, so constructed, that although barristers may practise therein, their assistance may yet be dispensed with, and when employed by one party only, may sometimes tend to the prejudice of the client, owing to the infirmities of the judge. I believe it is essential to the advancement of justice that both parties be represented by counsel, and that will not always, or perhaps often, be the case where practically, as in the small cause court, the employment of professional aid is optional, and the retaining a barrister on one side does not render it necessary or expedient that the other party should appear by counsel also. In such a tribunal, where neither litigant is assisted by counsel, the judge endeavours to decide impartially, and his efforts may be successful, although, as Sir Erskine Perry observes, he may often fail in discovering points material to the issue, and the law delivered may frequently be inferior in quality to what it would have been after hearing all that legal acuteness and industry could suggest. If counsel appear for one only of the parties, the judge may fail in his efforts to be impartial, for it lies upon him to be legal adviser on the other side; it depends on him alone to combat fallacies and sophistries advanced by the barrister, his competitor; his feelings may, and, I believe, often do become interested to the injury of his judgment; a leaning to the side he advocates is engendered, and he may unconsciously become a partisan. Perhaps these considerations have weight with the experienced suitor in the small cause court. If he and his opponent be alike without professional aid, they are so far on equal terms. Should his adversary alone have counsel, he may think the judge may, therefore, lean towards himself; and on his part, he may be reluctant to be the only one to retain a barrister, lest the court should contract a leaning to the side unprovided with such support. In criminal trials, if there be no counsel for the prosecution, I think a culprit has less chance of escaping when defended by council, than if he be without such assistance, unless there be some point of law decidedly in his favour which might escape the notice of the court, or unless there be a good defence to be substantiated by witnesses, for examining whom professional skill may be important: I have reason to believe that persons under criminal charges have sometimes been advised to the like effect.

The grounds on which I thus account for the services of counsel being, to a great extent, dispensed with in the small cause court at Bombay, will equally affect the court of the Law Commissioners, in which I, therefore, think professional aid will be very seldom resorted to, although it is probable that native lawyers and other low practitioners, like vakeels in the provincial courts, will often be secretly consulted. Indeed, the 18th section of the proposed Act for establishing the court, should it become law, will, in itself, go far to exclude counsel from practising. A power in the judge to declare whether the assistance of a lawyer was reasonably required or not, I have no doubt would often be capriciously exercised, according as piques or partialities arising from the deportment of counsel, and various other causes might influence the judges' mind. Besides, the unprofessional commissioners will be, in a great degree, incompetent to form opinions on the subject, and it is not improbable that barristers may refuse to practise before them. But little utility or satisfaction can arise from discussing points of law with men wholly ignorant of the science.

If the sciences of professional men be virtually excluded, the evils pointed out by Sir Erskine Perry must arise, and judges will often fail in discovering



points material to the issue, and the law delivered will be frequently inferior in quality. If the court of the Law Commissioners should be defective in such important particulars, and if it should become, as is intended, and, I doubt not, will be the case, the only court at each Presidency, must it not prove highly detrimental to the prosperity and morals of society.

Other defects in the provincial courts arise from the mode of pleading therein. In the 4th Bombay Regulation of 1827, rules for pleading are prescribed. They are so general that under them a very good system might be pursued, but the pleaders and the judges in those courts are unprofessional, and, perhaps, very properly under such circumstances, there are no provisions for enforcing conformity to the rules, which in practice are but little attended to. I have now before me some specimens of the pleading which, in fact, occurs. They are prolix, inconclusive, impertinent, argumentative, declamatory and discursive. Hence, not only are they more protracted than pleadings in the Supreme Court, at least, on the plea side thereof, but departures in pleading are frequent, the grounds of suit and of defence are shifted; immaterial issues arise, and matters really important are overlooked. Moreover, it frequently becomes difficult to ascertain whether any and what issues have arisen, or whether any and what evidence is required. Problems which, under the 23d section of the Regulation, the judges of the courts in question have to solve, and to that end are obliged to consult and have intercourse and interviews with the parties, whereby prejudices and prepossessions are engendered. So far as pleadings in the court projected by the Law Commissioners shall be prepared by unprofessional men, I have no doubt the evils alluded to as occasioned by ignorant pleaders; whether professional or unprofessional are also to be the judges, and further, are to act as legal advisers to the parties, I am confident they will very often become partisans, arbitrary and unjust; especially as, in a short time, there will be no other tribunal in view to control or afford a better example, and as counsel, if my opinion be correct, will seldom or never practise in the court of the Law Commissioners.

It is said that pleading or special pleading is inapplicable to India, because "it is almost impossible that a race of men like special pleaders should flourish in this country, and from the remarks of Sir L. Peel, Sir Erskine Perry gathers, that the statute of Beaupleader is as much a dead letter at Calcutta as it is at Bombay." During my experience of nearly 16 years at the latter Presidency, I have seen several barristers whose reasoning powers were well developed, and who, I believe, are and were (for some are dead) not incompetent as pleaders. Pleaders go wrong occasionally in England, more frequently in India, but in the latter country they are pretty much on a par as to the science with the judges before whom they practise. Consummate skill, however, is by no means essential either to the bench or bar, and it is obvious that pleaders, however imperfect, are more likely to attain the ends of pleading by aiming at a perfect system, than by avowedly adopting one which is inaccurate and incomplete, or by disregarding the rules of pleading altogether. A great deal of what is complained of as technicality in pleading, is founded on analysis of the intellectual faculty, and is in conformity with and in furtherance of the operations of logical minds occupied in determining a dispute. There was a time when, through excessive strictness, the end was often sacrificed to the means; justice, to a blind adherence to certain rules prescribed for its attainment, but by due relaxation of which their object is frequently secured. Accuracy should be required to a salutary extent, or the rules of pleading, as in the provincial courts, will soon be disregarded, and it is very difficult to ascertain the medium between over indulgence and being extreme, to mark what is done amiss.

If a just remission of rules, and due indulgence as to amendments be truly and uniformly aimed at by the courts, the whole system will be progressively ameliorated, and the mischiefs of occasional or frequent error will be greatly remedied. Sir Erskine Perry commends the practice in the small cause court, of referring all technical errors in the pleadings to the jeofail of the clerk. Such a practice may be safely carried to an unlimited extent in that court, where the officer acts as agent to both parties; under such a system, it seems impossible that a technical error can mislead either party. In the Supreme Courts, it might be a rule that, at the trial, no pleading shall be held invalid on account of verbal or technical error; that the court shall decide what is verbal or technical error; that all mistakes which shall not have misled the opposite party shall be deemed merely technical or verbal, and that where such mistakes have occurred, the pleadings

pleadings shall be construed and altered according to the meaning of the parties.

For a long period, as already mentioned, demurrers for matters of form have been discountenanced in the court at Bombay, and are therefore very rare ; but previous to the trial, certain errors in pleading may be objected to, which, with a view to enforce due attention and skill in pleaders, ought not to be excused ; for instance, errors which preclude the opposite party from logically taking issue. Such defects may be considered by some persons as merely technical or verbal, but they are substantial, and not merely formal.

The court at Bombay has exercised such powers with respect to amendments, &c., as are conferred on courts of record and judges at Nisi Prius in England, by 3 & 4 Will. 4, c. 42, ss. 23, 24. In this, the profession appeared to acquiesce, and perhaps the authority might be assumed, or the like ends obtained under the clauses in the charter directing the court to give judgment according to justice and right.

The Law Commissioners object chiefly, or solely, to the mode in which neglect of the rules of pleading is visited upon suitors, and the consequent mischief. They allege that this can only be remedied by what they term oral pleading, but which in fact is written pleading, prepared by the judges or commissioners of the court. Sir Erskine Perry, on the contrary, proposes to abolish pleading altogether. What he terms oral pleading, consists in the story of each party being told orally, and if there be no consequent reduction to writing, there is in fact nothing that a logician can call pleading, especially if every suitor is to tell his own story without professional aid. He obviously advocates the total abolition of pleading, because in the 22d section of his minute he repudiates an essential quality of every system of pleading, the separation of the law and fact ; and in the 28th paragraph, he even denounces the petition and answer system, of which he says, "This mode of procedure contains within itself all the inherent defects of special and equity pleading. The suitor's story is not told by himself, but by his legal adviser." In the previous sentences he had said, the petition and answer system "has uniformity and simplicity to recommend it. Any one can draw a petition. No inveterate forms oppose themselves as obstacles to prevent the judge from finding his way to the fact in the case." He cannot mean to intimate that although a petition be uniform, simple and free from inveterate forms, so that "any one can draw a petition," it necessarily contains within itself, all the inherent defects of special and equity pleading, or that the story told in a petition is necessarily told, not by the party himself, but by his legal adviser. This 28th paragraph, in fact, imports that a party himself, and not his legal adviser, should tell his story to the court ; and that a party is not even to employ the simple uniform petition, which any one can draw, as a vehicle for his story, but should tell it orally himself, without using any written pleading whatever. The note upon the 21st paragraph of his letter to the Government of Bombay, it appears to me, confirms this construction. He therein concedes to the Law Commissioners "the use they propose to make of certain rules of special pleading which have been found effective in practice," and subsequently adds, "I conceive, however, that if written pleadings are abolished, and with them the greater part of the technicalities with which written pleadings are accompanied, it is a misnomer to apply the designation of special pleading to a new system in which only a few of its rules are adopted." Thus, he contemplates the abolition of written pleadings, and five minutes' reflection will convince many a man that if written pleadings be abolished, no logical pleading can easily be carried on. In fact, Sir Erskine Perry intends there shall be no pleading whatever beyond the telling of his story by each party, for there is nothing in the minute to import that, according to his plan, any thing further is to take place, although we may conclude the judge or officer is to be at liberty to make notes.

The Law Commissioners, on the other hand, propose a widely different system ; for they intend that, from the oral pleading of the parties, or their agents, written pleadings shall be framed, not by a professional adviser, indeed, but by the commissioner or judge. Nor do they intend, as Sir Erskine Perry assumes, to use certain only of the rules of pleading ; for in their Report they say, "In the Supreme Court there are the elaborate rules of English pleading, calculated for the most part, as we believe, to produce the best results, when they are observed ;" and further on they say, "The logical rules which constitute the essence of pleading are of universal application ;" and using the words of Mr. Serjeant

Stephen, they term special pleading "a fine judicial invention;" and they object to the oral pleading in the court of requests as not being subjected to any rules, whilst the rules they prescribe in their draft Act, section 12, for pleading in the intended court, might embrace an elaborate system. That they intend a pleading much more special than Sir Erskine Perry advocates, is apparent from their precepts to separate law and fact; that pleas be kept distinct from demurrers; and that no plea be double or argumentative, &c. There are no provisions, however, for enforcing adherence to the rules, which I have therefore no doubt would soon become, like rules for pleading in the provincial courts, mere dead letter. Through want of skill and experience, the unprofessional commissioners would be incompetent to carry out the system, and through want of responsibility, and consequent inattention, the professional commissioners would soon become almost equally inefficient; and therefore, even as matters stand, I have no doubt that pleadings at law, in the Supreme Courts, are more concise and sufficient than pleadings would be under the system of the Law Commissioners.

In the 11th paragraph of his minute, Sir Erskine Perry expresses himself to the effect, that, "so far as his experience goes, the immense expenditure which attends a trial in the full court, is not rewarded by bringing the case to be tried a whit more satisfactorily before the judges," than it would be brought before them in the small cause court. I have already said that barristers are seldom employed in the small cause court; but, by the passage above quoted, Sir Erskine Perry does not mean that no benefit results from the attendance of counsel at a trial; such a construction would be irreconcilable with the opinions subsequently given in his letter to the Government of Bombay, as to the advantages accruing to judges and suitors from professional services. He intimates, I conceive, that the written forms adopted for bringing a case to trial in the small cause court, are as effectual and satisfactory as the mode of pleading in use in the Supreme Court. I concur in that position so far as the jurisdiction of the small cause court, and the forms of declaration used therein, are concerned; but thus far there is little difference between the latter court and the Supreme Court. The process of the small cause court is confined to actions for debts and liquidated damages, in which the cause of action does not exceed 350 rupees. A very simple form of declaration is prescribed, which in itself affords but little information as to the nature of the claim preferred, a knowledge of which is acquired by the judge, and perhaps by the defendant, from statements made by the officer, and from the bill of particulars which accompanies the declaration. Thus, there is little that can be called pleading, on the part of the plaintiff, in that court, especially where the claim is founded on an *indebitatus assumpsit*, and the like observations may be made as to similar actions in the Supreme Court, for the money counts are as simple and as brief as the counts adopted in the small cause court, and in themselves afford as little information as to the ground of action. The same also may be said of other forms of declaration used in the Supreme Court. What can be more general or vague than a declaration in *trover* or *ejectment*? what particulars of the suit can be collected from such preliminary pleadings? In each court the declaration on a bill of exchange or promissory note is somewhat more explanatory, for it describes the note, and shows whether the defendant is sued as drawer or acceptor, &c.; but since the new rules were established, the counts on bills and notes in the Supreme Court are as simple and brief as declarations on such instruments in the small cause court. On the whole, it seems to me, that in actions for debts and liquidated damages, and for several other matters, it signifies little what form, or whether any form of declaration be adopted. It is only requisite that the defendant have notice of the claim preferred, and that may be communicated in various and very simple ways. When relief is sought, either in law or equity, upon unusual grounds, more precision in the introductory pleading may be expedient.

If, therefore, the declarations used in the small cause court be similar to those employed in like cases in the Supreme Court, it may well follow that, so far, a case for trial is brought before a judge as satisfactorily in the one court as in the other; but my concurrence in the opinions of Sir Erskine Perry on this subject goes no further; for in the small cause court there is virtually no pleading at all on the part of the defendant, who alleges he is not indebted, or makes some statement equally vague, and under such a plea is permitted to adduce any matter which may form a defence to the action. Although this answers in the small cause court, where the officer acts as agent or legal assistant to both parties,

parties, and is thus previously apprised of the defence to be set up, I cannot think with Sir Erskine Perry that a case is not brought before the judges more satisfactorily in the Supreme Court than in the small cause court; for, in my opinion, the procedure in the small cause court is chiefly defective, because the officer of that court acts as agent and legal adviser to both plaintiff and defendant. The mode of pleading in question may be the best which could be adopted under what thus appears to me a very imperfect system, but it does not remedy what I consider the defect; and that mode of pleading would be insufficient in the Supreme Courts, where, as in the superior courts in England, the respective litigants have each his own professional agent and adviser. Formerly, in those courts, a very vague, general style of pleading, on the part of the defendant, was admitted in cases of the same description with those within the jurisdiction of the small cause court, but in order to obviate the consequent inconvenience, and the necessity thereby engendered for the plaintiff coming armed at all points, new rules requiring greater precision in pleading on the part of defendants, were prescribed, first in England, and afterwards in the Supreme Courts of India. Still, in many important matters, great latitude of pleading is allowed to defendants in the superior courts, as well in England as in this country; but the effect of the new rules has been the introduction of greater precision in pleading by defendants; and, considering that those rules were framed by the judges of England, we may hesitate to yield to the opinions of those who would virtually abolish pleading altogether.

But the small cause court at Bombay, it is argued, has succeeded, and therefore the proposed court must be successful. The jurisdiction of the small cause court is limited; that of the proposed court is to be unlimited. The small cause court co-exists with the Supreme Court, a better tribunal, affording to judges, suitors and the public an example, as I believe, of a better administration of justice, and the judges, being chiefly occupied in the latter court, are less liable to become arbitrary, negligent or ignorant. The proposed court will soon become the only tribunal at each Presidency; for, as the cheaper forum, it will carry off all business from the Supreme Court, especially as it is probable the judges of the former will be unable to resist a leaning on their parts towards the plaintiffs. It is well known how business increased in the Court of Common Pleas in Ireland, owing to Lord Norbury's inclination to the plaintiffs.

In the 30th section of his minute, Sir Erskine Perry speaks of examination of the parties as adopted in the small cause court at Bombay, and in the 39th paragraph of his letter to the Government of Bombay, he says the parties are examinable in that court at each stage of the inquiry, and that therefore, in every case where conflicting testimony occurs, immense advantage is obtained by the power of sifting the parties themselves. I hence conclude that Sir Erskine Perry, when presiding in the small cause court, examines and sifts the parties. I have myself gone as far as I have seen other judges go in that court, that is to say, when a case has been nearly brought to a conclusion, and it has become almost certain whether the plaintiff or the defendant would succeed, I have asked the losing party if he had anything to say with respect to such and such matters, obstacles to his success. This I have done; not intending to rely upon what the party might say, but in order to obtain a clue to further evidence, if any, and because it often happens that the officer of the court has not been fully informed by the parties, or has failed to elicit all the particulars of the case. I have never seen any other judge go further in the court in question. Sir Erskine Perry's practice may be very salutary; but I am not aware of the law or custom by which it is authorized.

I incline to think that the *vivâ voce* examinations of parties to suits in law and equity would have a beneficial effect. If that procedure be expedient, and should be legalized, it would in itself work an important change, and greatly reduce the expense of litigation. It might be as well to try such an experiment before having recourse to the greater innovations recommended by the Law Commissioners. Against such a measure it may be strongly urged, that thereby the system of intermediate agency between the court and the suitor is violated; that system by which, to use the words of Sir Lawrence Peel, "in spite of natural inequalities, the powerful and the weak, the negligent and ignorant, the bold and the timid, are enabled to meet in equal terms on the arena of justice." It is said, that to place suitors on equal terms, you should take their examina-

tions as well as their pleadings, from their law agents, giving to the other side the power of excepting to insufficient answers or examinations, and relying on the penalties against perjury, and the characters of the practitioners, as protections against falsehood and fraud. The mental qualities of suitors are, indeed, as various as their physical strength. One party may be dull, ignorant or old; his memory may have failed; he may be agitated or nervous. If required to answer on the instant, to matters contained in a bill or answer, or to things relating to the subject of dispute in an action at law, he may make incorrect statements or admissions to his prejudice, because he makes them without due and just qualifications. Very different would be the situation of an able, bold or cunning person, self-possessed and fertile in resources and explanations. To a considerable extent, however, the like objections apply to *vivâ voce* examination of witnesses. It may be replied, indeed, that the statements or answers of a party may be looked upon as admissions, without due allowance being made for mental or physical infirmities, or without its being perceived that anxiety as to the result or other matters so agitated the examinant, as to incapacitate him from doing justice to his case. Are judges incompetent to the full perception and consideration of such matters; and the making just allowances accordingly, or are jurors supposed equal to these arduous duties, which are frequently entrusted to them, when trials of issues are directed by the Court of Chancery? However these queries should be answered, the feeling in England is adverse to the *vivâ voce* examination of parties; and although under decrees in equity the Master is directed to examine witnesses *vivâ voce* if he thinks fit, he is only allowed to examine the parties on interrogatories.

I do not greatly advocate the *vivâ voce* examination of parties, upon the ground that judges may derive assistance from observing the demeanor of the plaintiff and the defendant. Unless in peculiar instances, where deportment is strongly marked, and of a very decisive character, I think it unsafe to allow the demeanor, even of an ordinary witness, to have much influence on the mind. Judges, jurors, barristers unemployed in the pending suit, and bystanders, often differ widely in their respective estimates of the demeanor of a witness, and very fallacious opinions, I believe, are often formed by those who much rely on such criterions. In my opinion, indeed, the most formidable objection to the *vivâ voce* examination of parties is, that it would, to a great extent, violate the system of intermediate agency between the court and suitor, and place judges in a situation in which they would be particularly liable to contract sympathies, antipathies and prejudices, or to indulge, strengthen or give effect to such affections, if pre-existent or otherwise derived. In the second page of Mr. Gresley's book on Evidence, there is the following note: "Doubtless, a judge will occasionally betray a feeling or a bias of which advantage may be taken; suitors are said sometimes to have assumed the appearance of poverty, in order to find favour in the eyes of Lord Hale." Sir Herbert Compton told me, that the leaning of the court to pauper parties was matter of observation at Calcutta, and I have heard it strongly hinted at in the court at Bombay. But, as already suggested, if the *vivâ voce* examination of parties be inexpedient, might they not be examined on interrogatories? Might not each party, as well at law as in equity, be permitted to file or deliver interrogatories for the examination of the other? Pleading in equity might then be abbreviated. Bills of discovery, with reference to actions at law, might be abolished; and if defendants in equity were to be considered acting parties, and entitled to call upon the court to order fraudulent instruments to be cancelled, &c., cross bills might be also disallowed. A bill to enable plaintiffs and defendants to examine each other on interrogatories, was brought into the House of Lords by Lord Wynford several years ago, but was thrown out, being opposed by the present Lord Chancellor and Lord Eldon.

Shortly before Mr. Anderson acted as Governor of Bombay, he told me it was intended to establish at Calcutta a court similar to the small cause court at Bombay, and he asked what I thought of the latter. At that time I had no idea the discussion now pending could arise, and so far my reply, that it required great care to prevent the small cause court from becoming a nuisance, was perfectly impartial. That opinion was founded on experience as counsel, as well as upon the bench. I thought that, as in the court in question, judges were to a great extent uncontrolled and unassisted by counsel, the proceedings were sometimes over summary, the law delivered of inferior quality, and material points of law

law and fact undiscovered or unnoticed. Evils of the latter description I thought frequently arose from the officer of the court acting as agent for both parties, by one or other, or both of whom he often was distrusted, and was thus kept in the dark as to important features in the case. It is a common allegation of the officer, that he has been unable to get such a party or parties to attend upon him. Even when sufficient attendance of parties is attainable, the officer cannot be expected to feel the same zeal, or to exhibit the like energy or skill on behalf of either of the suitors, or for both, as would be evinced by a professional assistant for one party only. Moreover, as the officer acts as agent and legal adviser to both parties, and has personal intercourse with them in those capacities, he is very liable to contract a bias to one side or the other; and, I think, almost always does so. The judge, it seems to me, is very much in the power of the officer, who states the case on both sides to the court, and the party against whom the officer has a leaning, is pretty much in the predicament of having his case stated by his opponent's counsel. Owing to the above circumstances, it appears to me that the court for small causes, though a good court of the kind, and useful, holds out great encouragement to fraudulent litigation, and does injury to some extent to the welfare and morals of society. It may be said, that many of the evils alluded to are attributable to the intermediate agency of an officer, whereas in the court of the Law Commissioners, the judges are to perform those duties which devolve upon the officer in the court for small causes. I do not, however, impute any wilful misconduct to the officer of the latter court. I merely think he is influenced, as a judge or any other man would be if similarly circumstanced; that the judges of the projected court will be influenced in the same manner, and that as they are to have greater power, greater evils will ensue.

It appears from the draft of the Act prepared by the Law Commissioners, that in the intended court the plaintiff, or under certain circumstances his agent, is to appear before a judge or commissioner of the court, and orally, or in writing, lay the case before the commissioner, who thereupon, and, from what he may elicit by examination of the plaintiff or his agent, is to frame the declaration. If the commissioner discerns any cause of action, the defendant is to be summoned or arrested, as the case may require; and he, or under certain circumstances his agent, is to appear before the commissioner, who may examine him, and who, in the presence of both parties or their agents, is to proceed to take the pleadings, and settle the demurrers and issues of fact.

Whatever renders a judge active in conducting a cause, is bad in principle, and inconsistent with his functions; an axiom which, in every stage of procedure prescribed for the intended court, is wholly disregarded. Whilst unusually extensive powers are given to the judge, the system of intermediate agency between him and the suitor is violated throughout, and accordingly prejudice and passion will have ample room, as well as ample grounds, to operate.

In the first instance, the commissioner is to discharge those duties which an able, upright attorney performs towards a client preferring a claim against another person. He is to hear or receive the statement of the claimant; elicit, by queries or otherwise, further information if expedient, for which latter purpose he is to be armed with power to punish prevarication or falsehood, and he is then to determine, in his own mind, whether there be any valid cause of action. I think all this would be better done by an attorney, to whom, as being his own agent, and of his own selection, and not a judge, the party might be more candid and unreserved. I have the less doubt the attorney would be more effective than the commissioner, because the latter is also to act as agent and legal adviser to the defendant; and the plaintiff will be most reluctant, I believe, to confide the whole matter to the commissioner, and will endeavour to conceal weak points, and whatever may, in his opinion, have an injurious effect upon his case, all which an attorney might be able to discover. The like observations may be also made respecting the commissioner's agency for the defendant: should either party appear to shuffle, with a view to better his case, the commissioner, whether he impose a penalty or not, may contract a bias against him; but I think his leaning will usually be against the defendant, for his more active agency will, in general, be exercised for the plaintiff, with whom, to some extent, he may identify himself accordingly. Besides, much delay and many adjournments will often occur before the case of each party can be fully understood,



in order to being duly expressed in the pleadings; and the commissioner will want zeal and inducement to exert such energy, skill and patience, with respect to either of, or both the litigants, as would be exercised by a responsible counsel or attorney acting for one party only; and in the absence of professional control and assistance, the commissioner's conduct may be arbitrary; he may fail in discovering material facts and points, for parties themselves may be blind to facts as well as points of law, if they do not perceive how they affect the case, and the law delivered may be frequently inferior in quality.

Not only are judges and the parties themselves blind to important matters of law and fact, which, with professional aid, would be discovered; but it often happens that where a judge perceives a point, he at first considers it untenable, and if alone would unhesitatingly overrule it, and yet the same point is afterwards put by counsel in a different light, and becomes the principal feature in the case. It may be said, parties are to be at liberty to employ attorneys and counsel in the intended court, but, for reasons already given, I think they will seldom have such assistance, especially as they can only have it under restrictions, and the draft of the Act obviously imports, that the commissioners are, in general, to discharge those duties which are now usually performed by attorneys or counsel. In general, therefore, it is to rest with a commissioner, professional or unprofessional, unchecked and unaided by counsel, to determine whether the plaintiff has stated a good cause of action; in other words, whether the action is to be instituted or not; and also, whether any and what points of law, or issues of fact, are to be raised; these last-mentioned matters must be left to his discretion, unless it shall be incumbent on him to take every demurrer, and raise every issue suggested by the parties; in the latter case, endless prolixity and nonsense must ensue; and if he is to exercise discretionary power in such particulars, he will be often subjected to reproaches and upbraidings, not always unjust, from the unsuccessful party.

Although Sir Erskine Perry discards written pleadings altogether, the Law Commissioners adopt them. As already mentioned, my own conviction is, that pleadings at law in the Supreme Court are already more concise than pleadings will be under the system of the Law Commissioners, and I have no doubt that pleadings in equity might be reform ed so as to secure a like result. The commissioners of the intended court, whether professional or unprofessional, would find it difficult to frame declarations or pleadings more brief, and yet sufficient, than those most commonly in use on the plea side of the Supreme Courts; in the more unusual pleadings there is much room for improvement. Abbreviation is difficult and laborious, and considering how irresponsible the commissioners of the proposed court will be, as compared with barristers and attorneys, I think that after a little time their pleading will be inadequate and prolix. In brevity of pleading, I therefore believe nothing will be gained under the proposed system, and but little, if anything, in the cheapness of drawing pleading. Most, or very many of the pleadings now used at law, are drawn by attorneys, and for them a comparatively small rate of remuneration is charged; but whether pleadings be drawn by attorneys, barristers or judicial commissioners, they must be paid for in one way or another. Under the new system, judicial commissioners are to perform the part of attorneys, counsel or officers of court, and thus a much greater number of judges will be required, and if such judges are to be remunerated upon any thing like the same scale as civil functionaries in the service of the India Company, they must be highly paid; and yet the greater portion of their duties will be such as are now performed by barristers and attorneys. A great portion of their pay may thus be considered as costs for their services in acting as attorneys or counsel, and in drawing pleadings; and upon striking a balance between such costs of drawing pleadings under the projected system, and costs as they might be reduced under the existing system, I am confident there would be little, if any, difference in favour of the former. Such costs of drawing pleadings by judicial commissioners would probably be extracted in some way from the suitors, but if not, they must fall wholly upon the Government; and if Government were to pay salaries to officers of the Supreme Court, instead of leaving them to be supported by fees, pleadings might be delivered between the parties, and the expense of pleadings would then be little, if any thing, beyond that incurred in drawing them.

Sir

Sir Erskine Perry believes he has fully met and refuted Sir Lawrence Peel's objections. It appears to me he has done neither. I shall not, however, go at any length into the argument, but limit myself to observing that Sir Erskine Perry assumes, that those objections are resolvable into two propositions:—"First, the proposed plan will introduce misdecision, and consequently uncertainty, into the law. Second, the plan gives the judge too much power." As to misdecision, he says, "This class of objections proceeds upon two assumptions, first, that the proposed procedure will not bring the facts in each case to the notice of the court; second, that upon the facts so brought, the judge will decide on arbitrary notions of justice and equity, and not on the substantive law of the land." This last position he terms an assumption altogether untenable and gratuitous, because "No change is proposed to be made in the substantive law of the land, but only in the mode in which the controversies of suitors are to be brought forward, in order to have that law applied to them." What he calls "the first assumption," viz. "that natural procedure will not bring out the facts," and which he imputes to Sir Lawrence Peel, he says, "is therefore all that needs to be noticed." After asking, "What arguments have been brought forward by Sir L. Peel to warrant this assumption?" he says, "To me it appears that the great advantages of the scheme consists in its aptitude to admit of all facts in issue between the parties being readily brought before the court, and that it is directly calculated to obviate those evils in the existing system, by which essential facts are often shut out, and by which so many decisions pass irrespective of the merits of the case." He then alludes to cases at the assizes in England, in which, through mistakes of pleaders and negligence of attornies, the parties have been turned round on the pleadings, or put out of court by a failure to prove a notice or signature, and concludes by saying, the volumes of reports "are equally full of decisions where the interests of suitors have been concluded for ever on some blunder or other of their legal advisers, and wholly irrespective of merits."

There are few professional men but will deny that this last assertion, as to interests of suitors being concluded for ever on some blunder of their legal adviser, irrespective of merits, is warranted by any thing that occurs in England at the present day, and I am not aware that there has been any instance of the kind at Bombay. As to parties being "turned round on the pleading," I certainly think the court at Bombay has not shown ready liberality in these matters, although on some occasions, to prevent the results in question, effective measures have been adopted, and adjournments granted from day to day, and even from term to term. I cannot at this moment recollect any case in which a party has been so "turned round" of late years at Bombay, and if judges have not already the power I think they possess, of remitting rules and adopting measures to meet the exigencies alluded to, such power might easily be conferred, and its exercise rendered incumbent on the courts. The mischiefs mentioned by Sir Erskine Perry could not indeed occur under the system he proposes, for thereby, as already shown, written pleading is to be altogether excluded; the parties are to tell their stories orally, and are not even to make use of petitions, which "any one can draw," lest the story should be told, not by the party himself, but by his legal adviser, and as there is no provision for reducing the oral pleading into written pleadings, conformable to the plan of the Law Commissioners, parties cannot be turned round on the pleadings.

But the first assumption ascribed to Sir Lawrence Peel is, "That the proposed procedure will not bring the facts in each case to the notice of the court," and one of the objections resolved into this last proposition is, that "the plan requires a judge of higher qualities than can be found, and even the highest qualifications would not be sufficient to ensure success, because the judge would have too much power." It appears to me that to fulfil the duties of attorney and counsel to each of two adverse litigants, a man requires very high qualities indeed, qualities rarely, if ever, to be found; that some of the difficulties of acting in this double capacity are but little diminished, whilst others equally formidable arise, where the same person also undertakes the office of judge between the parties, and that he who presumes to exercise such various and inconsistent functions, will probably fail in his duty as a judge, especially, as in such capacity he will have very great discretionary power, power which, from the infirmity of human nature, and the want of adequate control, must occasionally or often be abused. It, therefore, seems to me, that, owing to the difficulty of the various duties assigned to the judicial commissioner in the intended court, and the occasional or frequent abuse



of the discretionary powers entrusted to him, the proposed procedure, although it may often bring the facts in a case to the notice of the judge, inasmuch as the party, when not himself blind to them, may disclose them, yet, that such facts may be distorted, disregarded or made light of, as ignorance, prejudice or passion, may suggest; and that, under the like influence, the law applied may oftentimes not be the substantive law of the land, but such law strained, shortened or misinterpreted, as occasion may require.

But in the 23d paragraph of his letter, Sir Erskine Perry mentions what he considers preventive checks upon undue exercise of power by Indian judges, to wit, "The judges of the Supreme Courts have very little of the moral support which judges in England derive from the influential classes of society." Therein, it appears to me, lies the greatest danger. Moral support would sustain them when right, and abandon them when wrong. Upheld thereby, they would disregard the cabals or opposition of those whose fraud, violence or injustice were corrected or impugned in the administration of the law, and the apprehension of losing such support would greatly tend to keep them within due bounds. Unaided and uncontrolled by this moral influence, they may truckle, temporize or shrink from uncompromising performance of their duties, or they may overstrain their power for their own gratification, or that of others.

Sir Erskine Perry further intimates, that the local Governments and governing classes feel that the Supreme Courts have hitherto, in some slight degree, controlled them. The existence of any independent court in the country would produce the like effect. As he observes, however, the restraint, although lightly and temperately administered, can scarcely prove otherwise than galling, and I believe it has long been their object to remove it, and various proceedings of the Law Commission are obviously tending, in various ways, to its removal, and to the establishment of courts of a very different character. Under such circumstances the local Governments and governing classes may be, as Sir Erskine Perry leaves us to infer, very anxious to detect judicial errors, but the same feelings which occasion this anxiety, indispose them to afford that moral support already mentioned, and which, by being attendant on a judge when right, and forsaking him when wrong, is the chief security for due administration of justice. In fact, the local Governments keep carefully aloof, unless when cases are brought forward in which they are intimately concerned, and that is but seldom, for there is scarcely an instance of a prosecution for an offence by a civil servant being instituted in the Supreme Courts, such matters being almost uniformly disposed of by secret committees, and as to civil cases, there is generally such a leaning on the bench towards the ruling power, as deters many a suitor from going to law. A man must have a strong case to succeed where he is opposed to the local Government, and when at the bar, I have several times advised against the institution of suits against the East India Company, or where the Government of Bombay upheld the opposite party, not because I thought the client had not a fair demand, but because I was convinced the court would lean against him so strongly, that even if he obtained a verdict, he would probably be saddled with his own costs, or that very inadequate damages might be awarded. Still the Supreme Courts are some check upon power which would otherwise be more without control. Notice must be taken by the Government of glaring offences of civil servants, and redress for civil injuries must often be accorded, because the Supreme Court is open to aggrieved parties, if they choose to proceed in it, and if driven to seek redress in that way, publicity and inquiry are at least attainable; for where attorneys and counsel practise they cannot well be evaded, and in courts such as the Supreme Courts, there are, even in this country, some strong restraints upon the judges.

Another supposed preventive check is mentioned in the following terms: "The public press represents the interests of the executive classes almost exclusively, and therefore has additional motives to the tendency of a public press generally, to keep a rigid look-out for judicial peccadilloes." The newspaper trade has a demoralizing effect on those engaged in it. In India especially the European societies, being very limited individuals, frequently come into collision, petty party feelings and personal liking and dislikings are engendered, and when newspaper editors assail or applaud a man professedly on public grounds, it often happens they have been instigated by some dishonest, paltry motive. Hence, although their misstatements of facts are mischievous and annoying, their opinions are usually considered worthless. Each Indian newspaper primarily represents

represents the selfish interests, opinions, party feelings, piques and prejudices of particular individuals or cliques who are proprietors, or of its editor, and in a small society these concerns are so paramount and absorbing, that public spirit has but little opportunity to operate. If it be made worth while to the proprietors or the editor, directly or indirectly, as it often is, the newspaper will advocate the views of the executive classes, and not otherwise. But the argument may be put into a small compass. Sir Erskine Perry does not ascribe the representation of the interests of executive classes by Indian newspapers to high or public feeling. It has rarely sprung from so pure a source. Hence, however the public press may look out for judicial peccadilloes, its censure or its praise must fail of having full effect, and the preventive check in question must to some extent be feeble and ineffectual.

Lastly, Sir Erskine Perry thinks the bar in this country "more prone to concur in any carpings and cavils at judicial authority, than to support it even in its due exercise by their moral influence." That the bar in India are not so useful in the latter respect as the English bar, I cannot deny, and no doubt, unworthy characters are to be found at the bar as well as in other walks of life, but they are soon detected, and become insignificant. Still I fear the animadversions of the bar upon the exercise of judicial authority in this country are frequently correct, and I have no doubt they are more felt by the judge, and have greater effect upon him than observations from any other quarter, and are more effectual than any other check. There are always some men in the profession whose respectability, knowledge of law and honourable feelings are unquestionable; whose opinions cannot be disregarded, and who will abide by a judge in good report or evil report so long as they think he has fairly done his duty, and who will only impugn his conduct when they honestly think him in the wrong. I therefore think the bar form indeed a preventive check, but not because of their proneness to concur in carpings and cavils, a quality which must tend to lessen their moral influence and ability to control.

Each of these supposed restraining powers, except the last, is represented as arising from the peculiar situation of judges of the Supreme Courts. They are therefore inapplicable to the court proposed by the Law Commissioners, the judges of which, it may be inferred from the draft of the Act accompanying the Report, are to be appointed by the Governor of Bengal, and are to be paid, each such a salary, respect being had to his qualifications, as to the Governor-general in Council shall seem meet. It requires no great discrimination to perceive that such judges will be circumstanced very differently from judges of the Supreme Courts; that they will have a strict connexion with the local Governments of the country from which their appointments will have been obtained, and upon which the amount of each respective salary is to depend; that they will seldom or never be placed in any thing like conflict with the governing classes of the community, by which and by the press, so far as it may represent the interests of those classes, such judges will accordingly be upheld. Neither can these supposed restraining powers apply to the court proposed by Sir Erskine Perry. Should the tender of his services be accepted, and should he be appointed chief commissioner of such a court, either at Calcutta or Bombay, he will have been appointed by the local Government; in whatever light he may view himself, he will not be viewed by others as a judge of the Supreme Court, and he may not experience any want of that species of moral support, the want of which he has relied on as restraining the abuse of judicial power.

Judges in the colonies, I understand, are to some extent dependent on the local rulers, and I have been assured that defects in the administration of justice consequently arise, although in each colony there is usually a large European population, not forming a part of the executive class, but mixing therewith, influencing and controlling it, and although English colonists, if seriously injured, may become so clamorous as to make themselves heard in Downing-street or at Westminster, and therefore local rulers may study to appease them. In this country, however, there are but a few Europeans not included in, or employed under the executive class, the influence and power of which class is therefore paramount. The natives have no intercourse on equal terms with the executive European class or with Europeans in general, and the difficulties they encounter in seeking relief in England are notorious. Hence, one ground of the expediency of having in this country courts independent of and unconnected with the local authorities, and which, after all, has been but imperfectly effected.

Sir Benjamin Malkin, it appears, carried out at Singapore and approved of a system somewhat similar to that proposed by the Law Commission. His judicial qualities are highly spoken of, and under him the system may have worked better than could be expected under a judge of less estimable qualities and inferior attainments. Still I should receive with great caution the opinion of a judge as to the operation and effects of a favourite system. I should prefer the evidence of the suitors and practitioners, if any, who may have had experience of the court during the period he presided in it. A judge may imagine he has done a great deal of good in cases in which the profession or the public think he has shown himself a decided partisan.

Warnings of danger from the abuse of judicial power have been represented as uncalled for, and Mr. Bentham is charged with having gone ludicrously far in the surveillance he proposed to exercise over judges; but lawyers of experience, including Mr. Fearne, have concurred in the following sentiments of Lord Camden: "The discretion of a judge is the law of tyrants; it is always unknown; it is different in different men; it is casual, and depends upon constitution, temper and passion. In the best it is oftentimes caprice; in the worst it is every vice, folly and passion to which human nature is liable."

It is intended that the new court shall administer equity as well as law. It is to have cognizance of matters within the jurisdiction of courts of common law, but it is to apply the rules of English equity whenever those rules would be held applicable if such matters came under consideration in a court of equity. In short, when equity would affect any matter brought forward in the proposed court, equity jurisprudence is to be administered forthwith.

Many cases of fraud, accident and even trust, as cases of bailment, and that large class of cases in which the action for money had and received is maintainable, have long been cognizable at law, though formerly considered proper objects for a court of equity. The judges at Calcutta, as I understand them, are of opinion that the jurisdiction of courts of law might be extended to all cases of accident, mistake, dower and partition, account when not involving the execution of a trust, administration of assets, and, to a considerable extent, to demands for specific performance. It seems to me that, whether a case coming under any of these heads of jurisdiction could be properly taken cognizance of by courts constituted differently from courts of equity, would depend upon its particular circumstances. If the object of the suit were single, or not very complicated, and there was but one class of plaintiffs and but one class of defendants, all persons in each class having a unity of interest in the subject, it might be disposed of by a court constructed like a court of law, but in such a tribunal it would be difficult to dispose of a suit to which there were numerous parties, all-standing in different relations to the matter, such matter being manifold and complex.

The practice recommended by the Law Commissioners is represented as all-sufficient, and equally adapted to all cases, whether of legal or equitable cognizance. If it be indeed so, there could be but little gained by transferring matters of equity to law in the court they propose to erect, and it might be better to preserve the present distinction between legal and equitable jurisdiction, and to appropriate to each a particular side of the intended court, for such a measure might prevent them from being mixed up, as Mr. Justice Story says, "in a manner not easily comprehensible elsewhere." So also, in the Supreme Courts, if pleadings and proceedings in equity were rendered sufficient without being redundant, there would be but little, if any, advantage in the transfers from equity to law which the judges of Calcutta advocate. I concur in their views, subject to the qualifications mentioned in the last paragraph, and if the existing procedure in equity is to remain unaltered, I have no doubt that much good would often result from the measures they propose, but such good would arise because a man could sue at law cheaper than in equity. Whether a matter of equity be brought forward in a court of law or in a court of equity, it should be introduced by appropriate pleadings. A simple matter of equity might be brought before a court constituted as a court of law, by means of pleadings perhaps equally brief with those usually resorted to in such a court; why should it not be brought forward in like manner in a court of equity? Putting summary procedure out of the question, if a complex matter of equity could be disposed of in a court constituted as a court of law, it could only be by means of pleadings of much greater length, and more complicated and numerous proceedings, than  
would

would be necessary for such subjects as are usually committed to courts of law ; but why, in a court of either description, should the length of procedure be disproportionate to the subject ; and does not the difference in this respect between a court of law and a court of equity chiefly arise from those peculiarities in the latter, for which, in a former part of these observations, I have suggested remedies ? Would not the adoption of *vivâ voce* examination of witnesses in equity, in itself work a great and salutary change ? Might not summary procedure, as exercised in bankruptcy, and such measures as the judges of Calcutta suggest in the last paragraph of Sir Lawrence Peel's minute, be introduced with good effect ; and if all or many of these alterations were accomplished, wherein would the procedure at law have advantage over that in equity, and in such a state of things, what benefit would result from transferring to law particular branches of equity jurisdiction, except so far as courts of law might thus be enabled to dispose of a simple matter of equity incidentally or unexpectedly arising in the course of an action at law. Courts of law already exercise power for such purposes to a considerable extent, to wit, in cases of accident, mistake and fraud, and in such circumstances as occurred in *Legh v. Legh*, and the cases mentioned in note (w), 1 Bos. & P. 448.

The Law Commissioners seem to aim at an unlimited extension of the last-mentioned power ; judging from their arguments on such subjects, they claim for their court, authority to dispose of any matter of equity, however complicated in character, or whatever number of persons may be interested therein, which can arise respecting the subject of an action at law. Judging from those arguments, they apparently contend that such matter of equity should be summarily disposed of in a court of law, upon the same pleadings alone as the action of law required, irrespective of the equitable matter, and with the parties to the action at law alone before the court.

The Law Commissioners adopt the imperfect report of *Rattle v. Popham*, 2 Strange, 992, and state that case as follows : " It appeared that upon a marriage settlement a power was given to every tenant for life, when in possession, to limit the premises to any woman he should marry, for her life, by way of jointure and in lieu of dower. The tenant for life made a lease for 99 years, determinable on the death of his wife. Lord Hardwicke, in a court of law, held the lease not to be warranted by the power." They add, apparently on the authority of the report of *Zouch and Woolston*, by Burrow, the following words therein attributed to Lord Mansfield : " The widow brought her bill in the Court of Chancery, and Lord Talbot, arguing from the same premises, the power and the lease, without any other circumstance, held the lease to be warranted by the power." According to the same report, Lord Mansfield stated, that Lord Talbot had declared " it was not a defective, but a blundering execution of the power, and had decreed the defendant to pay all the costs both at law and in equity."

The report in *Strange* is erroneous, because it is therein stated, that the power was to limit by way of jointure and in bar of dower ; whereas it appears from the report of the case in Chancery, as given in Sir Edward Sugden's work, upon the authority of the registrar's book, that the power was not to give an estate in bar of dower, but the power was " for Walter, when he should have any estate in possession in the premises for his life, by any deed, to assign, limit or appoint to or for the use of or in trust for any woman or women that should be his wife for her life, in lieu of jointure, all or any part of the premises, to take effect from his decease ;" thus he was left at large to make a provision for his wife, and it was not essential that such provision should be in bar of dower. Had it been so, the execution of the power would have been erroneous, for the additional reason that the estate given by Walter Savage, was no bar of dower. The statement of the case in equity, as attributed to Lord Mansfield in the report in Burrow, is perhaps erroneous in several respects, but is certainly wrong in this, that it is therein said Lord Talbot " decreed the defendant" (Savage, the remainder-man) " to pay all the costs both at law and in equity." In Sir Edward Sugden's work, the decree, upon the authority of the registrar's book, is stated in the following words : " It was decreed that the plaintiff should be quieted in the estate comprised in the jointure-deed during so much of the 99 years as she should live, and the defendant was to pay unto the plaintiffs their costs of the suit ; and the injunction formerly granted in this cause for stay of the defendant's proceedings at law against the plaintiffs was to be continued."

Thus it appears the defendant was not decreed to pay the costs at law as well

as in equity, and when we detect so material an error, it is not unreasonable to suppose that in other respects also, with regard to this case, either Lord Mansfield may have been wrong in making the statements ascribed to him by the reporter, or the latter may have been wrong in imputing them to Lord Mansfield. The latter supposition seems to have been embraced by Lord Redesdale; see *Shannon and Broadstreet*, 1 Sch. & Lef. 70, 71. The account of the case in *Ambler*, 342, so far as it goes, corroborates that given in Sir Edward Sugden's Appendix. The statement regarding *Burlton et Ux. v. Humphries and others*, in *Cave*, imputed to Lord Mansfield in 4 Burrow, 2056, is another instance in which either Lord Mansfield mis-stated the case, or the mis-statement was wrongfully ascribed to him by the same reporter. *Ambler*, 256, and *Clarke v. Parker*, 19 Vesey, 20, 21.

With respect to *Rattle and Popham*, Lord Mansfield is represented to have said that "Lord Talbot, arguing from the same premises, the power and the lease, without any other circumstances, held the lease to be warranted by the power." I shall endeavour to show that Lord Talbot did not maintain any such doctrine. Lord Mansfield is represented to have asserted that Lord Talbot said "it was not a defective but a blundering execution of the power." No such expression is imputed to Lord Talbot in the report contained in the Appendix to Sir Edward Sugden's book, although some at least of the dicta of Lord Talbot in the case are therein professedly given; nor is any such expression attributed to Lord Talbot by the Master of the Rolls, in *Alexander v. Alexander*, or by either of the Lords Commissioners Willes and Wilmot, in *Churchman v. Harvey*, or by any other authority in any instance in which *Rattle and Popham* or *Newport and Savage* has been mentioned. In fact, *Newport and Savage* is always classed amongst those cases in which relief has been given against the defective execution of powers, and it is clearly an instance of defective execution within Lord Redesdale's definition in 1 Sch. & Lef. 63.

But whether Lord Mansfield was wrong or not in making such statements and using such expressions, regarding the case of *Rattle and Popham*, is unimportant, except so far as error in those particulars may detract from that weight which so high an authority might otherwise possess. His conclusion respecting this point of equitable jurisdiction was, no doubt, conformable to his opinions on similar subjects. It may be assumed that he held, that as the Statute of Uses makes good at law whatever is a good power or execution in equity, it followed that whatever was an equitable ought to be deemed a legal execution of a power.

Unquestionably the same construction of a power should prevail at law as in equity; and so it does. A power to limit an estate of freehold is construed at law as not authorizing a grant of a different species of estate, as a term for years; and the same construction prevails in equity, which, however, goes further, and although holding the grant for years not warranted by the power, yet, if there be no fraud, and the grant was made for meritorious consideration, will make a decree which, without declaring the estate for years to have been duly made, will yet relieve the grantee, by securing to him the enjoyment of it consistently with the intention of the grantor and of the person who created the power. The distinction was apparent to the Law Commissioners, but they have not embraced it. They say, "Lord Redesdale admits that whatever is a good power or execution in equity, the Statute of Uses makes good at law; but he implicitly denies that such an execution of a power as the lease in the case of *Rattle and Popham*, is good in equity. According to him, it is only such an execution as a court of equity, by its peculiar mode of acting will make good." They then proceed insisting upon the opinions of Lord Mansfield and Mr. Justice Wilmot, as given in Burrow, as authorities, and conclude, "that the only reason why a court of equity acts in such cases in the peculiar mode alluded to, is for the purpose of making such an execution of a power good at law." Now in this the Law Commissioners are quite wrong; for, to take the case they have themselves selected, although if the execution of the power in *Rattle and Popham* could have been or had been held good at law, there would have been no necessity for the court of equity to act, yet the decree respecting *Rattle and Popham* did not make the execution of the power in that case good in law, or declare it to be good in any respect. The decree left the execution bad at law, and merely provided in consideration of the circumstances, that the remainder-

man

man should not avail himself of the defect. No conveyances were directed, and the matter remained at law, as before the decree in equity, except that the remainder-man was enjoined from proceeding at law by ejectment or from disturbing the possession of the widow. It seems the bill was in the nature of a bill for quiet possession; *Cockshot and Parke*, Tothill's Rep. 177, *Hughes v. Morden College*, 1 Ves. sen. 187, Prac. Reg. 254, &c. Equity acts in such a case, not by making or declaring that which is bad to be good, but by exempting the case, in consideration of its peculiar circumstances, from the general operation of the law.

In *Wykham v. Wykham*, 18 Ves. 415 & 423, Lord Eldon puts the matter somewhat more explicitly than Lord Redesdale, in the following words: "I am not surprised that any one attempting to execute this power should have considerable difficulty how to do it. He could not get far wrong in equity; as being for a meritorious consideration, it would do in equity in almost any form in which that intention was clearly expressed. I say it would do in equity, as although the phrase is frequently met with in the common law reports, that what is not a good execution of a power at law, cannot be a good execution in equity; if by that is meant, that what cannot be sustained as a good execution of a power at law cannot be sustained in equity, I do not agree with that interpretation. Though not a good execution of a power anywhere, it may be that which a court of equity will take care to have executed. I therefore agree with Lord Redesdale, with the same difference expressed in his observations upon Lord Mansfield's language in Burrow's Reports; not admitting as doctrine to be maintained, that what a court of equity will substantially support as a good execution of a power in equity, is therefore a good execution at law; notwithstanding it is confidently there stated, that there can be no difference in the execution of a power at law and in equity. If it is to be understood a strict literal execution, viz. that it was duly executed, that must be the same both in courts of law and equity; but that a court of equity will enforce the substantial intention of the person executing, where a court of law cannot deal with it, is I apprehend extremely clear." See also *Butcher v. Butcher*, *Gooday v. Butcher*, 1 V. & B. 93 & 98, and 9 Ves. 393. So also in *Clarke v. Parker*, 19 Ves. 21, 22, Lord Eldon observes: "Lord Mansfield, in *Long v. Dennis*, says further, 'I mention these cases to show that the court ought not to make strides in favour of a forfeiture;'" and then Lord Eldon proceeds thus: "The strides, if any, were the other way. What follows resembles his observations on the execution of powers. I agree in the next passage, that there can be but one true legal construction of a condition; but if the proposition is, that a court of law can hold a condition to be performed in all circumstances in which a court of equity says, though it is not performed, relief shall be given against the non-performance, that is utterly unfounded."

The phrase "a good execution of a power in equity," is a loose expression, signifying not that the execution is good anywhere, to use the words of Lord Eldon, but that a court of equity, accounting the execution bad, but considering that the act done evinced the intent of the party who had the power to execute the same, and finding there was meritorious consideration on behalf of the appointee, will secure to the latter such benefit as can be granted consistently with the respective intentions of him who created, and of him who meant to execute the power. That such is the true construction of the phrase, and that with a view to give relief, equity holds the execution bad, and looks upon the defective act not as good, but merely as evidence of intention, several considerations tend to establish. If equity held the execution literally good, it should relieve even a volunteer, whereas it only grants relief where there is meritorious consideration. If equity in such instances held the execution literally good, it would be in effect to maintain the absurdity, that to limit an estate for years was consistent with a power to limit for life; that to limit for 40 years consisted with a power to limit for 10 years. Equity would relieve the meritorious party intended to be benefited by such an excessive execution as last alluded to. It would secure to him the use for 10 years, and no longer. It would do so, holding the execution bad as at law, although the loose expression "the execution is good for so much," might be employed.

If verbal inaccuracies are made ground for the position that what is held bad at law is held good in equity, an accurate expression commonly used in equity might be quoted to disprove the fallacy. An execution bad at law is frequently



called in equity a defective execution, which expression imports that equity considers it defective.

Whether the Law Commissioners be right or wrong in asserting that Lord Mansfield never meant to say that Lord Talbot found fault with the decision at law in *Rattle v. Popham*, it is quite clear that, according to the report in Burrow, Lord Mansfield himself did find fault with that decision, and upon the ground that Lord Talbot, "arguing from the same premises, the power and the lease, held the lease to be warranted by the power, and said it was not a defective, but a blundering execution; words importing that the execution was good at law, a blundering execution, but not a bad one. Sir Edward Sugden, however, shows (1 Vol. 516) that Lord Talbot clearly held the execution bad at law, inasmuch as, sitting in a court of equity, he held, as appears from the report of *Newport and Savage*, that it was not a mere blundering, but a defective execution. Lord Mansfield's argument is, the decision at law was erroneous, or the execution, which at law was held defective, would not have been declared in equity on the same premises, not to be defective. Sir Edward Sugden's position is, that in equity the execution was declared to be defective, and that therefore the argument of Lord Mansfield fails. If the execution was held defective as well in equity as at law, the construction of the power at law and in equity was the same; in each forum the execution was considered bad.

Lord Redesdale, in *Shannon and Broadstreet*, and Lord Ellenborough, in *Burne and Prideaux*, deny Lord Mansfield's imputations on *Rattle and Popham* to be well founded. Those imputations, so far as appears, went on the idea that the execution had been held in equity, not to be defective. Lord Redesdale obviously considers that it was held defective in equity, in the same sense as at law, and perhaps Lord Ellenborough may have entertained the same opinion, for he arrived at the same conclusion, namely, that Lord Mansfield's imputation on the decision at law in *Rattle v. Popham* was ill founded, and that imputation, as already shown, was maintained upon the position that the execution had been held good in equity.

In maintaining his views as to legal and equitable jurisdiction, Lord Mansfield had advantages in the case of *Rattle v. Popham*, for the decision therein at law was questioned upon other grounds than those assigned in 2 Burrow, 1147. That decision went upon the resolution in *Whitlock's case*, and that resolution, it has been argued, was a mere *obiter dictum* (see *Burne v. Prideaux*), and has been said to have been held too nice. Also, the power extended only to a single life, and there was no injury to the remainder-man by reversionary or concurrent leases. But at present there is no doubt that in *Rattle and Popham* the execution was bad, for the power was to limit a freehold, whereas only a chattel was appointed, and the differences between the estates in quality, in the qualifications they respectively confer, and with respect to executions, forfeitures, barring dower and the right of the remainder-man to suffer a remedy, are irreconcilable.

If the notions of the Law Commissioners were carried out, a man in an action of ejectment might acquire or retain possession of land in which he had agreed, but not in writing, to purchase from the owner of the fee, a term of 100 or 200 years, paying a small rent for the same, the parol agreement being followed by such circumstances as in a court of equity would entitle the vendee to a specific performance, but which circumstances wholly depended on parol evidence. There would be no record either of the parol agreement, or of the subsequent circumstances in the proceedings at law; indeed the purchaser's rights might be admitted without action; and in either case, whether his claims were litigated or not, at the end of the term the respective rights of the parties then entitled, if not utterly forgotten, would merely rest upon tradition.

Moreover, the Law Commissioners follow Lord Mansfield in maintaining that in actions of ejectment, such as *Rattle v. Popham*, a court of law should recognise title in an appointee under a power defectively executed, if there be circumstances in the case that would entitle the appointee to relief in equity. One of the results of establishing this doctrine would be, that a party entitled to an estate for a term of 30 years, might recover possession on an instrument purporting to appoint an estate for a much longer period, or a party entitled to one species of estate would recover upon an appointment of an estate of a different description. It would not appear upon the proceedings in an action of ejectment, how much the lessor of the plaintiff was entitled to, a point upon which the decree of a court of equity would be explicit. If a party who had thus recovered in  
ejectment

ejectment continued in possession for some years, the remainder-man might have difficulty in enforcing his rights, and, at all events, the title deeds, muniments and assurances of property would be inconsistent with the actual rights of the parties. Where a court of equity relieves an appointee under a defectively executed power, without decreeing conveyances conformable to the equitable rights of the parties, the existing appointment is inoperative at law, and under it no possession can be recovered which by lapse of time or otherwise might confuse, obscure or alter just rights; and the decree in equity explains and rectifies the whole matter. Nor can the Law Commissioners say that the court of law should declare the rights of the parties, or decree conveyances. They follow the opinions and arguments of Lord Mansfield regarding actions of ejectment, in which no such proceedings are admitted. Indeed, they contend (Report, page 18) that a court of equity directs a conveyance merely for the purpose of conferring a good title at law. It would follow, that a conveyance must be wholly useless where a good title is already recognized at law. Equity decrees conveyances, in order that they may answer the ends of conveyances,—in order that they may establish, secure and evidence good titles, both in law and equity. It is generally expedient that such conveyances should exist for the security of property, and to prevent litigation, and with the like views, if existing conveyances be inconsistent with the rights of the parties, the execution of perfect conveyances is frequently expedient, and where proper cases for such interference are made out, equity may decree accordingly. But it is not imperative on a court of equity, where an equitable title is bad at law, to have it made good at law by a conveyance. Equity may leave the title bad at law, as in *Newport v. Savage*, and, without decreeing any conveyance, may secure to the parties, by equitable process, the enjoyment of their several rights.

These are but a few of the evils which may arise, where, to use the expression of the American judge, Mr. Patterson, "there is no distinct forum to exercise chancery jurisdiction, and the common law courts equitise as far as possible." A court of law, in order to dispose of matters of equity connected with an action at law, would have to go into all the circumstances of the case, for, upon such circumstances, and not merely upon a particular instrument or deed, the equity would depend. To determine even whether there was meritorious consideration, it might be requisite to go into many circumstances not apparent on the deeds before the court, and not duly brought before the court either by the plaintiff or the defendant; and if the rights of the parties depended upon matters of equity rather than or as well as matters of law, many more parties might be interested in the matters of equity than were before the court with respect to the matters of law. It might also happen, that the matters of equity were by no means, or but insufficiently, raised or brought forward by the pleadings, and might therefore take one or both the parties by surprise, and the determination of matters of equity without proper pleadings and records, would cause confusion and obscurity in the administration of justice. To such difficulties, Mr. Justice Kelly alluded in *Lessee of Massey v. Touchstone*, an action of ejectment, in which the pleadings were general, not an action for breach of contract, in which the pleadings explicitly put forth the circumstances of performance and non-performance. He then drew the general conclusion, that a judge in a court of law should leave equity to its proper tribunal, and not foreseeing any attack from the Law Commissioners, he inadvertently referred to the case then before him as illustrating the evils he referred to. The case was comparatively simple, and did not fully exemplify the evils in question. Thereupon the Law Commissioners fall foul of him, and, as Lord Redesdale says, "looking at particular cases rather than at the general principles of administering justice, observing small inconveniences, and overlooking great ones, allege, *inter alia*, that Mr. Justice Kelly seems to have entirely forgotten that the agreement in the case referred to, and all the circumstances of performance and non-performance, are beyond all question the proper constitutional subjects of common law jurisdiction," and conclude several pages of matter in the same strain, by stating, "that where there is a legal agreement, and no formal objection which would preclude the party at law, a court of equity will not decree specific performance unless it is satisfied that the party is, under the circumstances, entitled to damages at law. That is, the courts of equity hold, that in such cases the question whether there is a clear equity, depends upon the question whether there is a clear title to damages at law."



As a portion of the premises to this conclusion, the Law Commissioners have adopted the doctrine, that because "before Lord Somers' time courts of equity would not even entertain a suit for specific performance of an agreement, until the plaintiff had first recovered damages at law for the breach of it," therefore, "according to the Chancellors who preceded Lord Somers, not only were the courts of law competent to this investigation" (whether a party asking for specific performance of an agreement has a clear equity), "but they are the only courts which are competent to it."—See the Report, page 25.

The Law Commissioners thus assume that, previous to the time of Lord Somers, courts of equity sent a party applying for a specific performance to try his right at law, in order that the court of law might investigate whether he had a clear equity. But the true ground for thus sending the party to try for damages at law, was not that assigned by the Law Commissioners, probably not even that which is usually assigned, namely, to try whether the plaintiff had a legal right, *i. e.* whether the agreement was legal and the breach of it a wrong, points which in those early times a court of equity, it has been supposed, might have been unwilling to assume a right to determine. But, as Mr. Butler expresses it, "the grand reason for the interference of a court of equity is, that the imperfection of legal remedy, in consequence of the universality of legislative provisions, may be redressed. Hence, for a length of time after the introduction of equitable judicature into this country, it was thought necessary, that before equity should interfere, this imperfection should be manifested by the party's previously proceeding at law, so far as to show, from its result, the want or inadequacy of legal redress, and his claim for equitable relief."

If the defendant, in *Lessee of Massey v. Touchstone*, had brought his action against the lessor of the plaintiff for breach of contract in not making the lease, "all the circumstances of performance and non-performance" would have been before the court of law (so far as was necessary) to ascertain whether a lease had been made, whether there had been any breach of contract, and, if so, to estimate the damage, but not with a view to determine whether, if the agreement were unperformed, Lord Massey should be compelled to perform it. The question whether a broken contract should be specifically performed depends, not merely upon "the circumstances of performance and non-performance" important in an action for breach of contract, but upon other, or all the circumstances of the case. Not only does equity sometimes relieve by granting a specific performance where damages may not be recoverable at law, but sometimes it will refuse a specific performance where damages may be recovered at law, the rescinding and decreeing specific performance of contracts being in the discretion of the courts. If a plaintiff's title be involved in difficulties which cannot be immediately removed, equity will not compel the defendant to take a conveyance, though he might at law be subject to damages for not completing his purchase. 1 Fonbl. 190, note (*i.*); and see *Mortlock v. Buller*, 10 Ves. 292. Thus irrespective of the particular case before Mr. Justice Kelly, the circumstances of performance or non-performance, which are brought before a court of law with a view to damages for breach of contract to make a lease, do not necessarily include those circumstances upon which it must depend whether a specific performance of that contract will be decreed in equity. The latter are not "the proper legitimate, constitutional subjects of common law jurisdiction." The judges at Calcutta propose to make them so, but they are not so at present, and were not so at the time when the Report of the Law Commissioners was being written.

As I think all courts should be empowered to examine parties, if not *vivá voce*, at least upon interrogatories, I think such a court as that proposed by the Law Commissioners should possess the power in question, and if an outstanding term should be set up in an action of ejectment, should be authorized to determine the effect of such term upon the same principles as a court of equity.

It is unnecessary to dwell upon those cases, much insisted upon by the Law Commissioners, in which judges have expressed opinions regarding the boundaries of legal and equitable jurisdiction, which have been long since overruled: no doubts or questions that the latter decisions are the more reasonable, and must prevail.

The Law Commissioners deduce from *Moses v. Macfarlane*, and *Farquharson v. Pitcher*, "that courts like the Court of King's Bench ought to be furnished with the means of doing justice in all cases within their jurisdiction, and that courts of conscience, inasmuch as they cannot be furnished with such means without

without great risk of injustice, ought not to be suffered to exist at all." If the superior courts could dispose of claims of small amount at a proportional expense, courts of conscience and tribunals of that description might be dispensed with; but hitherto no court in any considerable degree capable of a sound administration of justice has been contrived or established, in which the expense of litigating small demands has not been excessive, as being disproportionate to the matter sued for. Thus courts of conscience and courts of requests for deciding petty matters have been hitherto necessary evils. For the reasons already given, it appears to me that the Law Commissioners propose to erect but a very bad description of court of conscience, a court which cannot be maintained without great expense to the country, if not to the parties, and which will be the more mischievous because it is to exercise unlimited jurisdiction.

I have long thought that, under the judicial system at present existing, a court should be debarred from entertaining a suit or action in which it could not administer complete justice; therefore, that a court of law should have no jurisdiction over cases in which the effect of the judgment at law would directly or indirectly be annulled in equity. In an action at law, the moment it appears, although not specially pleaded, that matter of equity beyond the jurisdiction of courts of law is involved or incidentally comes in question, so as immediately to affect the rights of the parties, I think the plaintiff should be nonsuited, on such terms as to costs as a just discretion might direct. In this sense I think that an equitable title might be set up in ejectment as a bar to the further progress of the action.

I have already dwelt in general terms upon the question whether a court engaged in administering law should be allowed to "equitise," and, if so, to what extent: Lord Eldon has said of the separation of courts of law and equity, it "mainly contributes to the complete and effectual administration of justice in this country, and secures to the people an administration of justice to an extent and in a degree such as are unknown, and must be ever unknown where that separation is not effectually made and observed." He perhaps overrated the effects of the separation alluded to, and it certainly appears to me that in some instances the separation need not be observed so strictly as at present: but the Law Commissioners would wholly abolish it. The weight of authority is indeed against them; but they make light of it, and assail even Lord Redesdale, to whom they impute the following sophism:—"The Scotch courts are bad. The Scotch courts administer law and equity together. Therefore, courts which administer law and equity together are bad." It is fortunate for the memory of Lord Redesdale, which must otherwise have been grievously damaged through this perversion of his argument by the Law Commissioners, that what he did say is contained in his judgment in *Shannon v. Broadstreet*, and is published in the report of that case. But experience as well as authority is opposed to the views of the Law Commissioners. I have shown what have been the results of experience in these matters in the United States of America; and the experience which England had of the Court of Exchequer, although equity was administered therein as distant from law as could well be in a court administering both law and equity, was the chief reason why the equitable jurisdiction of that court was taken away, and given to the Court of Chancery, in the year 1841.

I have no doubt that if the proposed changes be salutary for India, it would be at least equally salutary for England to effect similar changes in that country, and therefore there is reason to believe that these propositions of the Law Commissioners will be duly canvassed by competent jurists, before their adoption in India is permitted.

(signed) *H. Roper.*

FORT WILLIAM, Home Department, Legislative, 23 November 1843.

THE following extract from the proceedings of the Right honourable the Governor-general of India in Council, in the Legislative branch of the Home Department, under date the 23d November 1843, is published for general information.

"Read a second time the draft of a proposed Act, dated the 30th September 1842, and published in the Calcutta Gazette of the 1st October 1842, for the better administration of justice, within the town of Calcutta, in small causes not included within the jurisdiction of the court of requests.

No. 1.  
On Civil Judica-  
ture in the  
Presidency Towns.

**“ Resolution.—**The Right honourable the Governor-general in Council resolves, that the following amended draft on the subject be published for general information :

ACT, No.        of 1843.

**“ AN ACT** to facilitate the Administration of Justice, by the Establishment of a new Court for the hearing and determining of Causes of small Amount.

**“ 1. WHEREAS** it is desirable that a court should be established in Calcutta for the hearing and determination of causes of small amount, and also to provide, in certain cases, for a rehearing of the same by way of appeal :

**“ It is hereby enacted,** that the judges of the Supreme Court of Judicature at Calcutta, shall be ex-officio Commissioners of the court hereby constituted, and together with so many other Commissioners not exceeding three, as the Governor-general in Council shall from time to time appoint, shall from and after the notification hereinafter mentioned of the constitution of the court, be a court of record, to be called **“ The Court for the trial of Small Causes at Fort William in Bengal ;”** and that Charles Waire Brietzeke, Esq., and Raboo Russomoy Dutt, the present Commissioners of the court of requests now established in Calcutta, shall be two of the first Commissioners of the court hereby constituted.

**“ 2. And it is hereby enacted,** that each ex-officio, and each other Commissioner of the court hereby constituted, shall, in open court and before entering upon the duties of his office as a Commissioner of the said court, be sworn diligently and honestly to administer justice as a Commissioner of the said court, according to the best of his knowledge and ability : Provided always, that in the event of any Commissioner objecting to take an oath, from religious scruples, it shall be lawful for such Commissioner to make a solemn affirmation to the same effect, in lieu of the oath required to be administered and taken in manner above-mentioned ; and the said Commissioners are hereby empowered to administer such oath or affirmation to each other.

**“ 3. And it is hereby enacted,** that the Commissioners of the said court, or any of them, may, and they hereby are respectively authorized, severally, as well as jointly, to perform all such duties other than the appellatory duties hereinafter mentioned, as the Commissioners of the said court are hereby required to perform, and severally as well as jointly to exercise all such powers and privileges, except as aforesaid, as the Commissioners of the said court are entitled to under the provisions of this Act.

**“ 4. And it is hereby enacted,** that sittings for the purpose of trying such causes, and adjudicating upon such matters as may be lawfully tried and adjudicated upon by the Commissioners of the said court, may be holden before any one or more of the said Commissioners ; and separate sittings may be holden before different Commissioners at one and the same time, at any convenient place within the town of Calcutta.

**“ 5. And it is hereby enacted,** that, as soon as conveniently may be done upon the passing of this Act, it shall be notified by the Government of India, by publication thereof in the Gazette, that the court hereby constituted is constituted and empowered to act as such court as aforesaid, and that the court of requests for the town of Calcutta has ceased to exist, and thereupon, and upon the publication thereof aforesaid, the said court of requests shall cease to exist : Provided always, that no judgment or order, or any other act whatever legally had, made, done or pronounced by the said court before it shall so cease to exist, shall be avoided, or in any respect affected by the provisions of this Act, but shall remain in full force and virtue in the same manner as if this Act had not passed, nor shall any actions, suits, causes or other proceedings depending in the court of requests at the time of the said court so ceasing to exist, be in any respect abated, but the same shall be transferred to the court hereby constituted, and shall be determined in the said court in like manner and by the same rules and forms of proceeding to all intents and purposes, as if the said court of requests were continuing, and the same were determined therein, and all papers, books, muniments and other things of, or in the said court of requests,

requests, shall be transferred and delivered over to the court hereby constituted, to be deposited and preserved in and by the said court.

" 6. And it is hereby enacted, that the jurisdiction of the court hereby constituted shall extend to the hearing and determining of all matters over which the said court of requests has or may have jurisdiction, and to the trial and adjudication of all matters over which the Supreme Court of Judicature at Fort William in Bengal, on its plea side, has or may have jurisdiction: Provided always, that the party defendant shall be an inhabitant, at the time of the institution of the suit, within the local limits of the jurisdiction of the said Supreme Court; and it is hereby provided, that every person who would be held amenable to the jurisdiction of the Supreme Court by reason of inhabitancy, if the suit had been instituted therein, shall in like manner be deemed subject to the jurisdiction of the court hereby constituted: Provided always, that no action, suit or other proceeding shall be brought in the said court for the recovery of any debt or damages exceeding 400 rupees, or for the recovery of any real estate exceeding in value 100 rupees per annum; and that no action for assault and battery, or for written or oral defamation, shall be cognizable by the said court.

" 7. And it is hereby enacted, that in all actions, suits and other proceedings whatever in the court hereby constituted, if one or both the parties be British subjects, Hindoos or Mahomedans, the Commissioners of the said court shall decide according to the law as administered in the like cases in the said Supreme Court of Judicature, subject, nevertheless, to such rules and regulations as may be herein expressly enacted, and as the said Commissioners may be authorized to make for regulating the process, forms of proceeding, including the statement and entry of the cause of action and defence, or other allegations in the suit, and the general practice of the court; provided that no person shall be incompetent as a witness either by reason of being a party to the suit, or married to, or of kin to any party to the suit, or of liability to the costs of the suit, or on any other ground of interest, but solely on the ground of defect of understanding or want of religious belief.

" 8. And it is hereby enacted, that the major part in number of the said Commissioners for the time being may and shall from time to time frame rules and orders concerning the process, forms of proceeding, including the mode of stating and entering the allegations of the respective parties in the progress of the suit, and the practice and the costs, and generally the conducting the business of the court; provided that such rules and orders shall not be enforced until they are confirmed and approved by the Governor-general of India in Council.

" 9. And it is hereby further enacted, that the said court, and each and every Commissioner thereof in his respective court, may and shall exercise such power and authority for the purpose of compelling the attendance of parties or witnesses, or for punishing contempts of the authority of the court, as the judges of the Supreme Court as aforesaid may lawfully exercise in the like case on the plea side of the court.

" 10. And it is hereby enacted, that all pleadings and other allegations of the parties shall be made orally before the said Commissioners, by the said parties or their attornies, and the legal result thereof shall be shortly entered in a book or books under the authority of the court, by some officer of the court; to which book or books the parties or their attornies shall have at all times access, without payment of any fee or reward, and shall be permitted, at their own expense, to take copies or extracts therefrom of any proceedings in the suit.

" 11. And it is hereby enacted, that in any action, suit or other proceeding, it shall be lawful for the said Commissioners, if they think fit, to adjourn the further hearing of such action, suit or other proceeding upon such terms, and for such time as they shall think fit; and if, on the hearing of any case, the Commissioner or Commissioners trying the same shall be desirous that the same should be heard before any one or more of the ex-officio Commissioners of the said court, it shall be lawful for such Commissioners, if they shall think fit, to refer the same to one or more of such ex-officio Commissioners, and for such purpose to adjourn the case; and the same shall be then heard and deter-

No. 1.  
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ture in the  
Presidency Towns.

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mined before the said ex-officio Commissioners, or one or more of them, as they the said ex-officio Commissioners shall think fit.

“ 12. And it is hereby enacted, that if any person or persons shall find him, her or themselves aggrieved by any judgment or order made or pronounced by any one or more of the said Commissioners, not being an ex-officio Commissioner, in any action, suit or other proceeding involving any question of title to lands or real estate, or in any case where an order has been made directing the payment of a sum exceeding Company's rupees, such person or persons may, upon giving such security as the said Commissioners shall think proper, appeal against the said judgment or order to the ex-officio Commissioners of the said court, provided that any one or more of the said ex-officio Commissioners shall be competent to hear and determine the said appeal: Provided always, that no appeal shall be allowed upon the ground of the decision being against evidence, if there be any evidence to support it, or on the ground of falsehood imputed to the evidence: Provided always, that an application for leave to appeal shall be made to the said ex-officio Commissioners within one fortnight from the making or pronouncing of such judgment or order.

“ 13. And it is hereby enacted, that the said Commissioners may and shall settle, as soon as conveniently may be after the passing of this Act, not exceeding two calendar months from the time of the constitution of the court, a table of fees to be paid by all and every person or persons engaged in any suit, action or other proceedings in the said court, for the transaction of all business relating to the same; and the said table of fees shall be hung up in a conspicuous part of the said court; provided that all such fees shall be subject to the approval and confirmation of the Governor-general in Council, and provided also, that no costs shall be chargeable against the adverse party for any fees paid to or any expense incurred by the employment of any counsel, or attorney acting as counsel, except in cases of appeal, or unless some one of the Commissioners shall certify that the circumstances of the case were such as to require the assistance of counsel.

“ 14. And it is hereby enacted, that the Governor of Bengal shall appoint from time to time such clerks, officers and servants as shall be found necessary to the efficient transaction of all the business of the court, and to the due administration of justice; and such officers, clerks and servants shall receive respectively such reasonable salaries as the said Governor shall think proper to appoint, subject to the approval of the Governor-general in Council.

“ 15. And it is hereby enacted, that the fees payable as aforesaid to the court hereby constituted shall be applied towards the payment and remuneration of the clerks, officers and servants above-mentioned, and generally towards the expense of maintaining the said court; and in case the said fees should exceed the amount required for these purposes, they shall undergo from time to time such revision and reduction as the Governor-general in Council shall think proper to make.

“ 16. And it is hereby further enacted, that the said court hereby constituted shall have power by any rules and orders to be made, subject to such approval as aforesaid, to adopt all or any of the provisions and powers made and conferred by any lawful authority for and upon the court of requests, and which it may lawfully exercise at the time of its ceasing to exist as aforesaid, so far as the same are not repugnant to the provisions of this Act.

“ *Ordered*, That the draft Act be re-considered at the first meeting of the Legislative Council of India after the 23d January 1844.”

(signed) *T. R. Davidson*,  
Officiating Secretary to the Government of India.

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## —No. 2.—

ON GIVING COMMISSIONERS OF THE COURT OF REQUESTS SO MUCH OF THE POWER GIVEN BY STAT. 5 & 6 WILL. 4, c. 19, TO JUSTICES OF THE PEACE IN ENGLAND, AS RELATES TO THE RECOVERY OF WAGES DUE TO MERCHANT SEAMEN, AND ON OTHER MATTERS CONNECTED WITH SUCH SEAMEN IN BRITISH INDIA.

No. 2.  
On giving Power to Commissioners of Court of Requests relating to Recovery of Merchant Seamen's Wages.

Dated the 25th April 1844, with connected Papers.

EXTRACT from a Despatch addressed by the Government of India to the Honourable the Court of Directors, in the Legislative Department, No. 1; dated 2 January 1837.

61. THE senior magistrate of police at Bombay submitted to the local Government the expediency of passing an Act for giving effect under that Presidency to the Act of Parliament passed on the 30th of July 1835, intituled, "An Act to amend and consolidate the Laws relative to the Merchant Seamen of the United Kingdom, and for forming and maintaining a Register of all the Men engaged in that Service." The Advocate-general at Bombay was consulted on the subject, and his opinion, with the senior magistrate's suggestion, were forwarded to us, with the opinion of the Right honourable the Governor in Council of Bombay, that, although they considered the measure advisable, they did not deem it necessary to submit the draft of an Act, as the subject was applicable to all India, and would engage our attention as a general question.

Suggestion of the Bombay Government relative to a recent Act of Parliament (5 & 6 W. 4, c. 19), for the protection of Merchant Seamen.

Legis. Cons.  
18 July 1836.  
Nos. 4 to 6.

62. We have forwarded the correspondence to the Indian Law Commissioners, and we have taken the opportunity of suggesting to them the expediency of conferring upon the commissioners of the petty court at Calcutta, so much of the power as is given to justices of the peace in England as relates to the recovery of wages due to seamen while in the port of Calcutta: we requested them to insert provisions to this effect in any new enactment which might be forthcoming, having reference to the petty court. The other branches of river jurisdiction referred to in the Act of Parliament belong to the bench of magistrates, and will engage the early attention of the Law Commissioners.

(No. 975 of 1836.)

From *E. H. Townsend*, Esq., Acting Secretary to the Government of Bombay, to the Secretary to the Government of India in the Legislative Department, Fort William; dated 3 June 1836.

Legis. Cons.  
18 July 1836.  
No. 4.

Sir,

I AM directed by the Right honourable the Governor in Council to transmit to you, for the consideration of the Right honourable the Governor-general of India in Council, the accompanying copy of a letter from the senior magistrate of police, dated 8th April last, suggesting the passing of an Act, giving effect under this Presidency to the Act of Parliament passed on the 30th July 1835, intituled, "An Act to amend and consolidate the Laws relative to the Merchant Seamen of the United Kingdom, and for forming and maintaining a Register of all the Men engaged in that Service," with the opinion of the acting Advocate-general, and to state, for the information of his Lordship in Council, that although this Government consider the measures of the kind suggested by Mr. Warden advisable, this Government have not deemed it necessary to submit the draft of

## No. 2.

On giving Power to  
Commissioners of  
Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

an Act, because the subject applying to the whole of India, it will no doubt engage the attention of the Governor-general as a general question, should his Lordship be pleased to concur in the views taken by this Government regarding it.

I have, &c.

Bombay Castle, 3 June 1836.

(signed) *E. H. Townsend,*  
Officiating Secretary to Government.

(No. 137 of 1836.)

Legis. Cons.  
18 July 1836.  
No. 5.  
Enclosure.

From *John Warden, Esq.*, Senior Magistrate of Police at Bombay, to the Secretary to Government, Judicial Department; dated 8 April 1836.

Sir,

1. THE Act of Parliament, of which the accompanying is a copy, intituled, "An Act to amend and consolidate the Laws relative to the Merchant Seamen of the United Kingdom, and for forming and maintaining a Register of all the Men engaged in that Service," was lately brought to my notice by Captain Hopkins, commander of the "Buckinghamshire." It has had effect from the 31st day of July last, and if, as I believe, it be in force, not only in India, but in every part of the world where a British merchant ship may be found to be subjected to its provisions, and there are two respectable British merchants to enforce them. I beg leave to suggest to the Right honourable the Governor in Council, that 50 copies be forthwith printed for the use of this, the collectors' and master attendants departments, and of others whom it may concern.

2. But if it should be said not to have effect here, I think the Government of India should be solicited to pass an Act giving it the sanction of law at this Presidency.

3. In the 47th para. of my report to the Law Commission, I stated my belief, "that there is no class of people who require more protection from tyranny and injustice than sailors," and I am gratified to find my opinion so soon justified by the passing of an Act of Parliament, "to give seamen all due encouragement and protection."

4. In the same report I stated that I was left to perform my "duty towards seamen without the guidance of a single Regulation, and that the general complaints were, that they were disrespectful, broke their liberty, refused to return to their ships, &c. &c." and the Governor will observe that this Act of Parliament gives me authority to act efficiently in all these matters, and at the same time to protect seamen from wrong, and to recover their wages for them in a summary mode, without their having recourse to the Supreme Court, the slow and formal proceedings of which render it quite useless to sailors whose ships are about to sail, and which is just the time when disputes arise between commanders and seamen.

I have, &c.

Bombay Police Office,  
8 April 1836.

(signed) *John Warden,*  
Senior Magistrate of Police.

(No. 19 of 1836.)

From *H. Roper, Esq.*, Acting Advocate-general of Bombay, to *J. P. Willoughby, Esq.*, Secretary to Government; dated 4 May 1836.

Sir,

I HAVE had the honour to receive your letter of the 28th ultimo, requesting my opinion as to the applicability to British India of the 5th & 6th Will. 4, c. 19, intituled, "An Act to amend and consolidate the Laws relating to the Merchant Seamen of the United Kingdom, and for forming and maintaining a Register of all the Men engaged in that Service."

The statute appears to me to have been drawn up in a very loose manner, and I am unable to give a decided or satisfactory opinion with respect to it; indeed,  
your



your inquiry is so general, that in order to give an adequate answer, it might perhaps become necessary to comment at great length upon each of the 55 sections in the Act.

The powers given by several clauses in the statute to one or more justice or justices of the peace in any part of his Majesty's dominions, and the powers given by the 51st section to collectors or other chief officers of the customs at the several ports of the United Kingdom, and of the British possessions abroad, unquestionably are conferred on justices of the peace, collectors and chief officers of customs respectively, in British India.

I incline to think that vessels belonging to Bombay, or registered there, and the crews of such vessels, are not within the second section of the statute, which provides that written agreements shall be entered into with his seamen by the master of any vessel belonging to any subject of his Majesty of the United Kingdom, trading to parts beyond the seas, or of any British registered ship of the burthen of 80 tons or upwards, employed in any of the fisheries of the United Kingdom, or in trading coastwise, or otherwise. The 54th section provides, that the Act shall not extend to any ship registered in or belonging to any British colony, having a legislative assembly, or to the crew of such ship, while such ship shall be within the precincts of such colony. India, strictly speaking, is not a British colony, and has not a legislative assembly; but the Supreme Government of India can now make laws; and therefore, and as the 2 Geo. 2, c. 36, the 2 Geo. 3, c. 31, and the 31 Geo. 3, c. 39, did not apply to vessels belonging to or registered in any port in India, or to the crews of such vessels, I conclude the late Act was not intended to affect such vessels or crews. Besides, though heavy penalties are imposed by the Act, it would seem that no means of recovering, in India, any greater penalty than 20*l.* is provided by the 53d section.

The register office for seamen is clearly to be established at the port of London only, and it is unnecessary to establish any such register office in India.

I have, &c.

(signed) *H. Roper*,  
Acting Advocate-general.

Bombay, 4 May 1836.

(True copies.)

(signed) *E. H. Townsend*,  
Acting Secretary to Government.

(No. 192.)

From *W. H. Macnaghten*, Esq., to *F. Millett*, Esq., Secretary to the Indian Law Commissioners; dated 18 July 1836.

Legis. Con.  
18 July 1836.  
No. 6.

Sir,

I AM directed by the Right honourable the Governor-general of India in Council to transmit to you, to be laid before the Indian Law Commissioners for their consideration, the accompanying copies of a letter from the acting Secretary to the Government of Bombay, dated the 3d ultimo, and of its enclosures, on the subject of passing an Act for giving effect, under the Presidency of Bombay, to the Act of Parliament of the 30th July 1835, relative to merchant seamen.

2. It has occurred to his Lordship in Council, that it would be expedient to confer upon the commissioners of the petty court so much of the power as is given to justices of the peace in England, as relates to the recovery of wages due to seamen while in the port of Calcutta, and the Law Commissioners are requested to insert provisions to this effect in any new enactment that may be forthcoming, having reference to the petty court. The other branches of river jurisdiction referred to, would seem to belong to the bench of magistrates, but it is requested that the whole subject may engage the early attention of the Law Commissioners.

I have, &c.

(signed) *W. H. Macnaghten*,

Council Chamber,  
18 July 1836.



## No. 2.

EXTRACT from a Despatch addressed by the Government of India to the Honourable the Court of Directors, in the Legislative Department, No. 7; dated 16 April 1838.

Construction of the Stat. 5 & 6 Will. 4, c. 19, a law required to enable Captains and Seamen to dissolve an Agreement of Service when mutually willing to do so.

Legis. Cons.  
29 Dec. 1837.  
No. 1 to 3.

22. At our consultation of the annexed date, we took into consideration a reference from the chief magistrate of Calcutta, on which the Right honourable the Governor of Bengal had obtained the opinion of the Advocate-general; we concurred with our law adviser in thinking, that the provisions of section 38 of the Statute 5 & 6 Will. 4, c. 19, is applicable to Calcutta. With reference, however, to the date of that law (30 July 1835), which is posterior to the date (14 March) of Act No. IV. of 1835 of this government, we thought that it could not be legally administered otherwise than by two justices of the peace.

23. The chief magistrate further stated, that he had been called upon by the commanders of ships frequenting this port to comply with the terms of sect. 41 of the statute law above cited. On this point it appeared to us, in accordance with the views of the Advocate-general, that the law in question was not applicable to the territories of the East India Company; we however, desired the chief magistrate, if he should be of opinion that the provisions referred to are essentially necessary to the protection of sailors frequenting this port, to submit for our consideration the draft of a law embodying those or similar provisions.

(No. 2405.)

Legis. Cons.  
29 Dec. 1837.  
No. 1.

From *F. J. Halliday*, Esq., Officiating Secretary to the Government of Bengal, to *R. D. Mangles*, Esq., Officiating Secretary to the Government of India, Judicial Department; dated 5 December 1837.

Sir,

Judicial Dep.

I AM directed by the Honourable the Deputy Governor of Bengal to transmit to you, for the purpose of being laid before the Government of India, for their consideration, the accompanying documents, in original, as specified in the margin.\*

I have, &c.

(signed) *F. J. Halliday*,

Officiating Secretary to the Government of Bengal.

Fort William, 5 December 1837.

Legis. Cons.  
29 Dec. 1837.  
No. 2.

From *D. M'Farlan*, Esq., Chief Magistrate of Calcutta, to *R. D. Mangles*, Esq., Secretary to the Government of Bengal; dated 3 February 1837.

Sir,

Enclosure.

I HAVE the honour to report, that I have been called upon by the commanders of ships frequenting this port to comply with the terms of the 41st section of the Act, cap. 19, of the 30th July 1835, when they had individuals among their crew with whom they were disposed to part, and who had no objections so to part with their commander; with a desire of doing what lies in my power to facilitate such agreements, I have entered on the ship's articles a narration of the fact in the following form:—

“Certified, that William Ramsay, master, and Peter Goldie, able seamen, appeared before me this day, and both expressed their willingness that the articles entered into between them to serve on the “Jean” should be at an end; to which I do not object.

“(signed) *D. M'Farlan*,

“Calcutta Police Office, 5 March 1836.”

“Chief Magistrate.”

I need

\* Letter from Calcutta Chief Magistrate, dated 3d February 1837. Letter to Advocate-general, dated 7th February 1837. Letter from Calcutta Chief Magistrate, with Enclosure, dated 8th November 1837. Letter to Advocate-general, dated 27th November 1837. Letter from Advocate-general, dated 28th November 1837.

I need not remark, that I am not one of the authorities mentioned in the Act ; indeed, doubts have been started from high authority, whether the Act applies at all to this country ; there appears, however, a necessity to meet the wishes of officers of ships wishing to be relieved of parties disposed to part with them, and I have not hesitated to act upon it. The sanction of Government to the arrangement would, however, seem desirable.

On giving Power to Commissioners of Court of Requests relating to Recovery of Merchant Seamen's Wages.

I have, &c.

(signed) *D. M'Farlan,*  
Chief Magistrate.

Calcutta Police Office, 3 February 1837.

(No. 283.)

From *R. D. Mangles*, Esq., Secretary to the Government of Bengal, to *John Pearson*, Esq., Advocate-general ; dated 7 February 1837.

Sir,

I AM directed by the Right honourable the Governor of Bengal to transmit to you the accompanying copy of a letter from the chief magistrate of Calcutta, dated the 3d instant, and to request that you will favour his Lordship with your opinion on the subject of it.

Judicial Dep.

I have, &c.

(signed) *R. D. Mangles,*  
Secretary to the Government of Bengal.

Fort William, 7 February 1837.

From *D. M'Farlan*, Esq., Chief Magistrate of Calcutta, to *F. J. Halliday*, Esq., Officiating Secretary to the Government of Bengal ; dated 8 November 1837.

Sir,

I HAVE the honour to forward, for the information of Government, the accompanying copy of a deposition by John Geary, first officer of the ship "Repulse," and to state, that the doubt under which we labour as to the applicability of the Act 5 & 6 Will. 4, c. 19, s. 38, stands in the way of the prompt administration of justice.

2. If that clause were applicable, we could save the complainants from the delay and expense incident to a prosecution before the sessions of the Supreme Court.

3. The Act of this Government, No. IV. of 1835, giving power to one justice, will not apply to this law, even if made applicable to Calcutta, for it was passed before the English.

4. I have the honour respectfully to state, that I have not been favoured with any reply to communications from this office of 19th August 1836, 22d November 1836, and 3d February 1837.

I have, &c.

Calcutta Police Office,  
8 Nov. 1837.

(signed) *D. M'Farlan,*  
Chief Magistrate.

THE information and deposition of *John Geary*, taken upon oath by me, David M'Farlan, one of Her Majesty's Justices of the Peace in and for the town of Calcutta, at Fort William, in Bengal, the 4th day of November 1837, who, on his oath, saith :—I am first officer of the "Repulse," the defendant, John Hunter, is boatswain's chief mate. On Sunday last, about four in the morning, all hands were called to make sail ; we were then at the Sand Heads. The hammocks were piped up ; the boatswain ; reported 50 hammocks not brought up ; I went below with the boatswain ; a hammock was hanging lashed up ; Hunter answered, that it was his ; I desired him to take it down ; he said he would not take it on

## No. 2.

On giving Power to  
Commissioners of  
Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

deck, though he would take it down. He used abusive language, very offensive; I do not recollect the exact words; I was excited; I called out to the officer to cut down the hammocks, if they could not find owners; defendant lowered his hammock, and took it five yards, throwing it behind the main ladder on the carpenter's bench; I ordered him to take it on deck; he said, he would be damned if he would; I ordered him on deck; Roberts stowed the hammock in the netting; the defendant was on the quarter deck, using violent abusive language towards me; I ordered him on the poop, where he would not go; I attempted to force him; I did not strike him, I merely shoved him; he then struck me on the left side of the head, seizing me by my clothes; I threw him down on the deck; Major Trelawney sent his recruits to seize him; he was then taken aft, and both legs put in irons; I know of no cause to lead to this, except that defendant abused me for ordering an anchor watch the evening before.

(True copy.)

(signed *D. M. Farlan,*  
Chief Magistrate.

No. (2313.)

From *F. J. Halliday, Esq.*, Officiating Secretary to the Government of Bengal,  
to *John Pearson, Esq.*, Advocate-general; dated 27 Nov. 1837.

Sir,

Judicial Dep.

IN continuation of my predecessor's letter to your address, No. 283, of the 7th of February last (to which no reply has been received), I am directed by the Honourable the Deputy-governor of Bengal to transmit to you, in original, the accompanying letter from the chief magistrate of Calcutta, dated the 8th instant, with its enclosure, and to request that you will favour his Honour with your opinion as to whether Act 5 & 6 Will. 4, c. 19, s. 35, is applicable to Calcutta.

2. With your opinion, the return of the chief magistrate's letter is requested.

I have, &c.

(signed) *F. J. Halliday,*  
Officiating Secretary to the Government of Bengal.

Fort William, 27 Nov. 1837.

From *J. Pearson, Esq.*, Advocate-general, to *F. J. Halliday, Esq.*, Officiating Secretary to the Government of Bengal; dated 28 Nov. 1837.

Sir,

I HAVE the honour to acknowledge the receipt of your letter relative to the statute 5 & 6 Will. 4, c. 19.

2. It is quite clear that many of the clauses of the statute are applicable only to the ports of the British islands, and some of them only to those of England; I need only instance those which relate to parish apprentices; some of them, however, are of wider application. The 38th section, indeed, speaks merely of ships "belonging to any subject of the United Kingdom," but it gives the power of punishing for an assault committed in them, to "any two justices of the peace in any part of his Majesty's dominions." I certainly think this section is so far applicable to India, that two justices of the peace in Calcutta have authority given them to interfere "upon complaint of the party aggrieved;" I do not think that a single justice will be sufficient. The Act of the Legislative Council, No. IV. of 1835, applies only to laws then in force; it was passed 14th March 1835; the 5th & 6th Will. 4 bears date 30th July in the same year.

3. I do not remember whether I replied officially to the letter sent me in February last relative to the 41st section of the same Act, but, if not, I feel sure that I did so in some manner to the chief magistrate. It is, certainly, a question which I then did, and yet do, entertain doubts; I conceive that this clause must have been intended for India as well as for other parts of the world, yet it

it hardly seems to me that the intention has been carried into effect, or that India is indeed included in it, for these territories cannot be looked upon as a "colony or plantation;" such, at least, is the opinion which has always seemed to me just upon the subject. I have also understood, that not long before my arrival in India, a question as to the navigation laws turning upon this point, was brought before the Supreme Court, and that the necessary inference from the decision was, that it held such opinion to be correct.

No. 2.  
On giving Power to  
Commissioners of  
Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

I have, &c.

(signed) *J. Pearson,*  
Advocate-general.

Fort William,  
28 November 1837.

(No. 1.)

From *R. D. Mangles*, Esq., Officiating Secretary to the Government of India, to the Officiating Secretary to the Government of Bengal, dated 29 Dec. 1837.

Legis. Cons.  
29 Dec. 1837.  
No. 3.

Sir,

I AM directed by the honourable the President in Council to acknowledge the receipt of your letter, dated the 5th instant, with its enclosures, relative to the Act 5 & 6 Will. 4, c. 19, and to communicate as follows in reply, for the information of the honourable the Deputy-governor of Bengal.

2. His honour in Council is of opinion, that section 38 of the Act above cited is applicable to Calcutta, but its date being posterior to the date of Act No. IV. of 1835, of the Government of India, it must be administered by two justices of the peace. He concurs with the Advocate-general in thinking section 41 of the Act not applicable to the territories of the East India Company.

3. If the chief magistrate shall be of opinion that the provisions of the section last referred to are essentially necessary to the protection of the sailors frequenting this port, he will report his sentiments to that effect, with a draft of a proposed Act to extend these or similar provisions, for the consideration of the Supreme Government.

4. The original papers which accompanied your letter are herewith returned, copies having been kept for record.

I have, &c.

(signed) *R. D. Mangles,*  
Officiating Secretary to the Government.

Council Chamber,  
29 December 1837.

COPY of a Despatch addressed by the Government of India to the Honourable the Court of Directors, in the Legislative Department (No. 1); dated 14 January 1839.

(No. 1.)

To the Honourable the Court of Directors.

Honourable Sirs,

IN continuation of paragraphs 22 and 23 of our despatch, *Legis. Cons.*, 8 Oct. 1838, No. 7 to 17. No. 7 (16 April), of 1838, we have the honour to lay the accompanying papers before your honourable Court. " 12 Nov. 1838, No. 5 to 7. " 14 Jan. 1839, No. 14 to 16.

2. The chief magistrate of Calcutta, with reference to our communication, as noticed in the above cited despatch, submitted the draft of a law for transferring to a single justice of the peace at Calcutta the powers vested by sect. 38 of the statute 5 & 6 Will. 4, c. 19, in two such justices, and with a view as well to the protection of merchant seamen frequenting this port as to conserving the interests of the police of the town, Mr. M'Farlan, supported by the opinion of the Chamber of Commerce, with whom he had communicated on the subject, further proposed to give local effect to the provisions of section 41 of that statute.

3. The statute in question having been passed since the date of the Charter Act, our colleague, Mr. Amos, was of opinion, that we were not competent to make

## No. 2.

On giving Power to Commissioners of Court of Requests relating to Recovery of Merchant Seamen's Wages.

make any alteration as respects section 38 thereof, especially as that section had been declared by the Advocate-general at the Presidency to be applicable to Calcutta.

4. With respect to section 41, Mr. Amos, satisfied with the opinion of the Advocate-general that it did not extend to the East Indies, stated, that if even a local law were passed for the territories of the East India Company in the terms of that section, it would be inoperative for the object proposed by the 5 & 6 Will. 4, that object being that in any suit for the wages of a British seaman, where such seaman has been discharged, the validity of the discharge shall be determined by a colonial certificate. Mr. Amos argued, that we could not, by any local law, give the same effect to the certificate of any officer appointed by the Indian Government, as regards suits for wages brought in England by British seamen.

5. After discussing the question in Council, and after various communications held by our colleague, Mr. Amos, with the chief magistrate and with Mr. Greenlaw, the Secretary to the Marine Board, Mr. Amos submitted the draft of a law, which having been approved by us and by the Right honourable the Governor-general, was published for general information on the 8th October last.

6. This law was designed to confer on any single justice of the peace at Calcutta the power of taking cognizance of and punishing the acts of masters of merchant ships discharging, without proper authority, seamen against their will, and before the expiration of their term of service, the acts of seamen refusing to obey the lawful orders of their masters, and all cases of assault or battery committed on board any merchant ship, provided that in all these several cases the offence is committed when the ship is on the River Hooghly, or the mouths thereof.

*Vide Act XXI. of 1839, put up.*

7. On the publication of this draft, we received a communication from the chief magistrate of Calcutta, suggesting the propriety of making petty felonies committed on the river between Calcutta and the sea, punishable by the Calcutta magistrates; but we determined to leave this point for consideration in connexion with a draft law for reviving the powers of the court of quarter sessions, which we expect to be soon laid before us.

8. Your honourable Court will perceive, from the papers now submitted to you, that we invited the advice of the honourable the judges of the Supreme Court at Fort William, in respect to the law which we proposed to enact, and that it is in consequence of the opinion entertained by them, that we are induced thus specially to submit the entire question for your consideration.

9. The honourable the judges agree in opinion, that the provisions of the Act 5 & 6 Will. 4, c. 19, are applicable to India, and that under section 43 of the 3 & 4 Will. 4, c. 85, we are not competent to pass the proposed Act, in so far as, in some respects, it is understood to vary the provisions of the first-cited statute.

10. We believe the proposed law to be of considerable importance, both as respects the police of the town and the navigation of the port of Calcutta. But, in consequence of the communication from the judges of the court here, we deem it expedient to suspend, for the present, the taking of any further measures in respect to it, and to submit the whole subject to the consideration of your honourable Court. It will be seen that the Advocate-general and the honourable the judges at this Presidency differ in their views as to the applicability, generally, to India of the statute 5 & 6 Will. 4, c. 19, and that we are ourselves disposed to think that the provisions we have had under our contemplation would not vary that statute, but would be collateral to it, applicable only to the remedy of local grievances not contemplated by the Imperial Legislature.

(signed) *W. Morison.*  
*T. C. Robertson,*  
*W. W. Bird.*  
*A. Amos.*

Fort William,  
14 January 1839.

(No. 1411.)

From *F. J. Halliday*, Esq. Secretary to the Government of Bengal, to *R. D. Mangles*, Esq. Officiating Secretary to the Government of India, Legislative Department; dated 10 July 1838.

Legis. Cons.  
8 October 1838.  
No. 7.

Sir,

WITH reference to your letter (No. 1), dated the 29th December last, I am directed by the Honourable the Deputy-governor of Bengal to request you will lay before the President in Council the accompanying copies of letters from the chief magistrate of Calcutta, dated the 2d April and 2d instant, and of its enclosures, for the purpose of being sent to the Law Commissioners for consideration.

Judicial Dep.

I have, &amp;c.

(signed) *F. J. Halliday*,  
Secretary to the Government of Bengal.

Fort William,  
10 July 1838.

From *D. M'Farlan*, Esq. Chief Magistrate of Calcutta, to *F. J. Halliday*, Esq. Officiating Secretary to the Government of Bengal; dated 2 April 1838.

Legis. Cons.  
8 October 1838.  
No. 8.

Sir,

WITH reference to your letter of the 9th January last (No. 79) I have the honour to state, that, under the opinion given therein, several convictions have taken place under the 38th clause of the Act of Parliament alluded to; the amount of fines levied has been sent to the Sailors' Home, as the institution corresponding most closely with the Merchant Seamen's Hospital, spoken of in the clause.

2. It would be desirable that the power given in that clause to two justices should be vested in one; of the soundness of that principle I have no doubt. The extent of the inconvenience arising from the present state of the clause will not be great. If possible, however, a specific law for this place should be passed; we have some trouble in finding what the law at home is;\* we have no Acts of Parliament officially communicated to us. The penalty ought also to be expressed in the local currency, say 200 rupees fine, and simple imprisonment of two months in default of payment.

3. The 41st clause of the Act being declared not to be applicable, I should have apprehended that considerable inconvenience must have accrued to masters of vessels who for two years and upwards have quietly put the Act in practice, by having my certificate of discharge of seamen indorsed on their articles, as already described. It certainly is of importance to captains and their crews to have a ready means of causing the cessation of articles of agreement, and it is an undoubted matter of convenience to the town that it should not be inundated with European sailors without the knowledge of the magistracy. It is further of some little pecuniary importance to Government, that a portion of their wages should be set apart to meet the expenses that must for the sake of humanity be incurred in looking after European seamen when sick. I am strongly of opinion, therefore, that the present practice should be continued.

4. It would apparently be necessary that a law be passed here for the special case; for the master of a ship knowing that the Act is not in force here, might discharge his European crew without any form being gone through at all, and if the legal authorities at home agreed with those here, he would be liable to no legal question whatever. I add a note of such clause as I think ought to be passed.

5. The exposition now given by the Advocate-general of the applicability of certain clauses of this Act is founded, I conclude, upon the use of the words "His Majesty's dominions,"† in those clauses, and on that footing clauses 6, 10, 14, 15, 16, 38, 40, 51, 53, are probably applicable here. The provisions of clauses 10 and 14, are calculated to be useful, and I shall not hesitate to act upon them.

6. It

\* Yet the sentence is guided by the home law.

† Yet the Acts passed by the Government here speak of the territories of the East India Company; so also does the Act 3 & 4 Will. 4, c. 55.

## No. 2.

On giving Power to  
Commissioners of  
Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

6. It will be observed in the letters attached to this, that I have endeavoured to get the sense of persons connected with the shipping of the port, as to whether the home apprentice laws regarding the sea service might not be beneficially introduced here. From the tenor of the reply, and the fate of the Marine School ship, it will be better to confine legislation at present to the case of British sailors.

7. I cannot help thinking that much good might accrue to the youth of the country if greater encouragement were given them to enter the sea service. As governor of the free-school I am enabled to state that such an insight into the theory of navigation might easily be given to the boys of that institution, as would render them most useful apprentices, and enable them at a future period, to take their share in the large coasting trade of the country. The difficulty in cases of this kind is to make a beginning. This might perhaps be done by requiring the masters of the Honourable Company's pilot vessels to take two or more boys, and to teach them the rudiments of sailorship; the system might be left to extend itself. The unsound and wretched practice under which parents here look to posts for their children as mere clerks, might gradually give way to the more wholesome practice of educating them for the sea.

I have, &c.

(signed) *D. M'Farlan*,  
Chief Magistrate.

Calcutta Police Office,  
2 April 1838.

## ACT.

It is hereby Enacted, That if after the date of the publication of this Act any master of any British or foreign vessel shall discharge or permit to abscond, at any of the ports in the British possessions in India, under the government of the East India Company, any one or more of the crew of the said vessel being British or foreign mariners, without the sanction in writing of an officer to be appointed in that behalf by publication in the official Gazette of the Presidency in which such port may be situated, by the Governor of the said Presidency, the said master shall, on conviction of the above offence before any justice of the peace, forfeit to the use of the nearest hospital or other place of refuge for European seamen, a sum not exceeding 200 rupees on account of each mariner so discharged or permitted to abscond, to be levied by distress of goods, and failing such distress the said master shall be liable to a period of imprisonment in the nearest common goal, not exceeding two months.

From *D. M'Farlan*, Esq., Chief Magistrate of Calcutta, to *W. Limond*, Esq.,  
Secretary to the Bengal Chamber of Commerce; dated 15 Feb. 1838.

Sir,

DOUBTS having arisen as to whether certain provisions of the Merchant Seamen's Act, 5 & 6 Will. 4, c. 19, are in force in Calcutta, I have obtained an official opinion, as detailed in the accompanying copy of a letter from Mr. Halliday, that section 38 of the above Act, giving power to two justices to punish common assaults committed at sea, is applicable, and that section 41 is not applicable.

2. The removal of any doubt that existed in regard to the clause first above-mentioned is so far satisfactory. It is desirable also, that we should know that the 41st section is not applicable. I am not aware, however, that the decision on these two point gives any criterion which we can safely apply to the other clauses of the Act.

3. It will be seen that the Government here propose to enact any such provisions as may be calculated to give protection to the seamen, and the object of the present reference is to have the benefit of the opinion of the Chamber of Commerce on the subject.

4. I am very anxious that the spirit of the 41st clause should be maintained here; considerable advantage to the police has attended the simple course described in my letter to Mr. Mangles of the 3d February 1837, and the readiness with

with which captains of ships avail themselves of it (no inconvenience having resulted to them at home), renders me exceedingly averse to discontinue it. The practice enables us to keep for the poor sailor a part of his wages to answer calls in sickness, or to provide him with an outfit when he gets a new ship, and we know that he is authorized to be here. Under it, we are sure that seamen cannot be turned adrift without their full consent, or without the claims of justice being considered.

On giving Power to Commissioners of Court of Requests relating to Recovery of Merchant Seamen's Wages.

5. It is obvious that the Act not being applicable here, there can be no provision in it to make what I do illegal, for that is a mere assertion of a fact; but I should regret exceedingly if any opinion held by me should lead captains of ships to do any thing which might involve them in trouble at home; with this view, I venture to bring the matter to your notice, both that full publicity may be given to the state of the law, and practice under it, and that the opinion of the Chamber should be obtained as to whether it would be expedient to pass any law here enabling captains and seamen to part when so disposed.

6. There is another point of some consequence on which the opinion of the Chamber would be useful; viz. whether ships belonging to this port should not be required to take Christian apprentices, say from the free-school.

7. The phraseology of the 38th clause, is similar to that of the 10th, both using the words "His Majesty's dominions," I conclude we might act upon it here.

8. If agreeable to the Chamber to furnish me with any opinion as to the desirableness of passing any legislative enactment on these subjects, I should be happy to receive it for the ultimate consideration of Government.

I have, &c.

(signed) *D. M'Farlan,*  
Chief Magistrate.

Calcutta Police Office,  
15 February 1838.

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From *W. Limond, Esq.,* Secretary Bengal Chamber of Commerce, to *D. M'Farlan, Esq.,* Chief Magistrate of Calcutta; dated 21 February 1838.

Sir,

YOUR communication of the 15th instant has been laid before the committee of the Chamber of Commerce, and, in reply, I am desired to intimate that the Chamber is distinctly of opinion that section 41, of 5 & 6 Will. 4, c. 19, is applicable to India, and cannot understand on what grounds it is held that it was not meant to be so applicable. However, as such high authorities have embraced a different opinion, the Chamber, appreciating with you the salutary provisions of said section, would presume to recommend that these be extended to the territories of the East India Company, by an enactment of the Supreme Government.

The Chamber also concurs with you in wishing to see Christian apprentices, say, from the free-school, employed in ships belonging to this port, but it would be diffident of the expedience of resorting to a coercive measure on the subject, unless it is customary in England to do so in analogous circumstances.

I have, &c.

(signed) *W. Limond,*  
Secretary.

Bengal Chamber of Commerce,  
21 February 1838.

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From *D. M'Farlan, Esq.,* Chief Magistrate of Calcutta, to Captain *T. T. Harrington,* Master Attendant, Fort William; dated 27 February 1838.

Sir,

I HAVE the pleasure to forward to you a correspondence that has taken place between this office and Government on the subject of the Merchant Seamen's Act passed by the home Legislature in 1835.



## No. 2.

On giving Power to  
Commissioners of  
Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

2. You will observe that Government express their readiness to pass an enactment having for its object the protection of seamen, and I have no doubt that they would willingly enact any other clauses that could be shown to be for the advantage of the country.

3. In the letter of Government there is no very clear index given of the reasons why one clause of the above Act is to be applicable to India, and another not; but I presume the point turns upon the use of the words "His Majesty's dominions;" wherever such phrase is used, the clause is understood to apply here in common with all other parts of such dominions.

4. On this rule of interpretation it is clear that the clauses 2 to 5 inclusive are not at present applicable, nor are clauses 7 to 9, 11 to 13, 17 to 37; clause 39; also clauses 41, 51; and the question occurs how far it would be desirable to urge Government to enact them, or any of them.

5. I should be very much obliged by your giving me your own opinion, and obtaining that of as many persons experienced in nautical affairs as you can command, as to whether all or any of these dormant clauses should be re-enacted here.

6. Obtaining this kind of evidence is certainly not within the proper sphere of my duty, but I am very averse to press upon Government the enactment of any laws which, in the opinion of competent judges, might not be necessary or be hurtful.

7. I have also the pleasure to annex copies of a letter from myself to the Chamber of Commerce on the subject of the present reference, and of their reply.

I have, &c.

(signed) *D. M'Farlan.*

Calcutta Police Office,  
27 February 1838.

(True copies.)

(signed) *D. M'Farlan,*  
Chief Magistrate.

No answer to this officially received.

From *D. M'Farlan, Esq.*, Chief Magistrate of Calcutta, to *F. J. Halliday, Esq.*  
Secretary to the Government of Bengal; dated 2 July 1838.

Sir,

I HAVE, since writing the letter of the 2d April last, to which this is tacked, had occasion to communicate with the Chief Justice on the provisions of the Act alluded to in that letter, and I find that he "is of opinion that the Act extends to India, and that many of its provisions are in force here." Thus far I am authorized by him to say, and my own impression is, that he thinks that the Act applies here to British registered ships having crews on board articulated in England. Much of what I have written above is therefore misplaced; I think it better however that it should stand, in order that Government may see how difficult it is for us to follow the directions of a law when we cannot tell, and the most learned have doubts whether the law is meant to be followed by us at all.

2. I take this occasion to trespass upon you with a short review of the several clauses of the above Act, and to suggest that it may be submitted to the Legislative Council whether such amendments might not be made on certain clauses of the Act, as would (not repeal but) adapt them to the circumstances of the place.

3. It seems clear that the 2d clause, and part of the 4th, do not apply here. Take the case of a British registered ship discharging its European crew and proceeding to China or the Mauritius manned by Lascars; the captain would not by the Act be compelled to go through the process therein described in regard to these Lascars. Again, it seems plain that the clause would not apply to Indian\* registered ships; they are the most generally engaged in what is called the country trade. It may no doubt be said, that if the enforcement of the provision

\* See Act 3 & 4  
Will. 4, c. 35.

provision be just and wise as against British ships, it would most certainly be just and wise in regard to Asiatic ships, which are the most numerous, and, generally speaking, commanded by men in no way superior in education and habits to commanders of large British vessels. For this class of ships it is clear that an Act of this Legislature would be necessary.

4. There is the class of foreign ships, Dutch, American, French ; they often take in crews, or at least seamen, here ; they are not to be compelled to adhere to these clauses. If the protection of seamen be the object of the Act, they should go through the process equally with British ships.

5. Clause 3, is plainly inapplicable here, but we might well consider whether the Legislature here should not enact it for country ships.

6. Clause 5 would seem capable of being applied here, but the provision appears the dictate of common justice, which the courts here would attend to without it.

7. Clause 6 ; we have abundant law similar to this in our bye-law ; but the 3d clause of this Act makes a chief mate a seaman, and I have been called upon to commit one to the house of correction under it ; whether that is a wise provision would seem to require consideration. It certainly does not apply to any but ships described in the 1st paragraph of this letter.

8. Clause 7 to 13 seem very just, and the principles ought to be applicable in all cases.

9. Clauses 14 to 16 had better be made to apply to the petty court, who have simple and efficient rules for speedy adjustment of such cases ; but in regard to seamen comprehended in the description in the first paragraph, the case seldom occurs.

10. Clauses 17 and 18 are plainly law here.

11. Clauses 19 to 24 seem inapplicable.

12. Clause 25 ; this also is inapplicable, but the principle might be adapted to this country very easily.

13. Clauses 26 to 37 are plainly applicable at present, but only as regards disputes occurring here between masters and apprentices duly bound in England.

14. Clause 38 I have remarked on above, in paras. 1 and 2 of the preceding letter.

15. Clause 39 ; on this no remark seems necessary.

16. Clauses 40 and 43 ; for these we have a law in the Indian Criminal Act, at clause 71.

17. Clause 41 ; on this clause I have remarked above, in\* paragraph 3 and 4 of the preceding letter. If it is now law here, then my proceedings have been wrong for two years and upwards, and I ought instantly to tell any master of a ship who comes to me to cancel his articles, to go to any "two merchants" to get it done.

The inconvenience of this course would be very great, as I have explained in the paragraphs just quoted, and as no inconvenience has resulted to masters at home from following the present course, I beg to suggest that I be allowed to go on until the Legislature here can render the law applicable.

Also 42.

18. Remaining clauses require no special note.

19. There is another important clause of the Marine Law under which I have lately been called upon to act ; viz. Act 3 & 4 Will. 4, c. 55, s. 27 ;\* whether that clause applies to India generally is not clear, from the use of the word "territory to His Majesty belonging,"† but I presume it would apply in the case of British registered ships, and ships registered in Calcutta British, and does the clause apply to them ? Suppose the mate of a French ship to keep the register of that ship, he having been discharged, would the law apply to him ? In reason, perhaps, it ought, but the letter of the law would not help us ; I beg to suggest that this clause be made generally applicable.

20. I have

\* Giving power to magistrate to try charges against persons for retaining Ships' Registers, and to sentence them to a fine of 100 l. commutable, if not paid, 12 months' imprisonment.

† See also the 3d clause, where the territories under the Government of the East India Company are specially alluded to as something different from the British Possessions in Asia.

No. 2.

On giving Power to  
Commissioners of  
Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

20. I have thus, at the risk of being thought tedious, and trespassing beyond my proper sphere, brought the questions connected with this Act as fully before Government as my limited time will allow of; I have only again to call attention to what is stated in the 2d paragraph of this letter.

I have, &c.

Calcutta, Police Office,  
2 July 1838.

(signed) *D. M'Farlan*,  
Chief Magistrate.

*P.S.*—This subject appears to have engaged the attention of the authorities at Bombay, and to have led to a reference to the Law Commission.

Judicial Department, 10 July 1838.

(True copy.)

(signed) *F. J. Halliday*,  
Secretary to the Government of Bengal.

MINUTE by the Honourable *A. Amos*, Esq.; (not dated.)

Legis. Cons.  
8 Oct. 1838.  
No. 9.

I HAVE conferred with Mr. M'Farlan upon the subject of the Merchant Seamen's Act, and have satisfied him that the only answer we can give is as follows:

We think that we cannot adopt the proposed draft for transferring the powers given by the 38th sect. of 5 & 6 Will. 4, c. 19, from two to one justice, as it would be deemed to "vary or affect" that Act, which the Government is not enabled to do, the Act having been passed since the last Charter Act.

With respect to the 41st section, we are advised by the Advocate-general that it does not apply to the East Indies, and his reasons appear to us satisfactory; we cannot, therefore, recommend to the Governor-general in Council, in his executive capacity, to grant you any authority under that section. We also think, that if we were to pass an Act for the East India Company's territories in the terms of the 41st section, it would be inoperative for the purpose proposed by the 5 & 6 Will. 4, which is, that in any suit for British seamen's wages, where the seaman has been discharged, the validity of the discharge shall be determined by a colonial certificate; we think that we could not, by any local law, give the same effect to the certificate of any officer appointed by the Indian Government, as regards suits for wages brought in England by British seamen.

We shall be happy to consider any propositions made by yourself or by the Chamber of Commerce, for applying to the East Indies such clauses of the 5 & 6 Will. 4, with or without modifications, as are clearly not at present applicable to those territories, as also for applying the statute to seamen not being British seamen, on sufficient grounds for legislating being shown, and the desired enactments being specifically pointed out.

NOTE by the Honourable *A. Ross*.

If the Act 5 & 6 Will. 4, c. 19, does not apply to India, I do not see why the Legislative Council of India should not be competent to pass an Act for the protection of merchant seamen in the port of Calcutta, adopting the provisions of the Act above mentioned, or any other provisions which might be deemed better adapted for the end in view.

(signed) *A. Ross*.

Legis. Cons.  
8 Oct. 1838.  
No. 10.

MINUTE by the Honourable *A. Amos*, Esq.; dated 3 August 1838.

THE original application made to Government was for transferring the powers of the 38th section of c. 19, 5 & 6 Will. 4, from two to one justice, and for applying the 41st and some other sections, to the East Indies. We have no power to alter the 38th section, and after various communications with Mr. Greenlaw and Mr. M'Farlan, I am led to conclude that the accompanying draft will be satisfactory to the parties requesting our interference, and will be useful and proper as a legislative measure, subject to such objections as may possibly be urged upon the draft being published.

It

It will be observed, that when sailors refuse to work, and oblige a captain to put back, it is usually done out of the port of Calcutta, though before the ship quits the territories of the East India Company.

The recent instance suggested, of the captain of the "Kellie Castle" having dismissed about 80 English sailors at Calcutta, in consequence of being able to procure native sailors who could navigate his ship to China, may or may not, upon inquiry, be found to be strictly correct, but the suggestion illustrates the manner in which the town may be injured by the conduct of captains under similar circumstances, and the mischief is said by competent authorities to be a very common one.

(signed) *A. Amos.*

On giving Power to Commissioners of Court of Requests relating to Recovery of Merchant Seamen's Wages.

## DRAFT ACT.

Legis. Cons.  
8 Oct. 1838.  
No. 11.

1. It is hereby enacted, that if any master of any merchant ship employed on sea voyages shall, during such time as such ship shall be in the river Hooghly, or mouths thereof, being part of the territories of the East India Company, without the sanction of a magistrate or justice of the peace first had and obtained, discharge any seaman against his will before the time of the expiration of the service of such seaman, he shall be liable, on conviction before any justice of the peace exercising jurisdiction within the town of Calcutta, to be punished with a fine not exceeding 100 rupees.

2. And it is hereby enacted, that if any seaman belonging to any merchant ship employed on sea voyages shall, during such time as such ship shall be in the river Hooghly, or the mouths thereof, being part of the territories of the East India Company, without justifiable cause to be proved to the satisfaction of the justice of the peace before whom he may be charged, refuse or wilfully omit to obey the lawful orders of the master of such ship, he shall be liable, on conviction before a justice of the peace exercising jurisdiction within the town of Calcutta, to be imprisoned with or without hard labour for any term not exceeding three months, if the offence be committed whilst the ship is in progress either to or from the sea, or for any term not exceeding one month, if the ship be lying at anchor off the town of Calcutta or Kidderpore.

3. And it is hereby enacted, that in the case of any assault or battery which shall be committed on board any merchant ship employed on sea voyages in the river Hooghly, or the mouths thereof, being part of the territories of the East India Company, it shall be lawful for any justice of the peace exercising jurisdiction within the town of Calcutta to hear and determine any such complaint, and to punish the offender by a fine not exceeding 100 rupees.

(signed) *T. H. Maddock,*  
Officiating Secretary to the Government  
of India.

(No. 487.)

From *T. H. Maddock, Esq.,* Officiating Secretary to the Government of India, to *W. H. Macnaghten, Esq.,* Secretary to the Government of India with the Governor-General; dated 20 August 1838.

Legis. Cons.  
8 Oct. 1838.  
No. 12.

Sir,

I AM directed by the honourable the President in Council, to forward to you, to be laid before the Right honourable the Governor-general of India, the accompanying papers in original, as noted on the margin,\* together with the draft

\* Letter from Chief Magistrate of Calcutta, dated 22d November 1836, to the address of the Secretary to the Government of Bengal, with one Enclosure. Letter from Officiating Secretary to the Government of Bengal, dated 5th December 1837, with one Enclosure. Letter to Officiating Secretary to the Government of Bengal, dated 25th December 1837. Letter from Officiating Secretary to the Government of Bengal, dated 10th July 1838, with one Enclosure. Notes by the Honourable A. Amos, Esq., without date, and by the President in Council. Minute by the Honourable A. Amos, Esq., dated 13th August 1838. Private Correspondence with Mr. Greenlaw and Mr. M'Farlan, with one Enclosure.

## No. 2.

On giving Power to  
Commissioners of  
Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

draft of a proposed Act for the protection of merchant seamen in the port of Calcutta.

2. His honour in Council solicits the sanction of the Governor-general to the draft of Act being published for general information, and requests, that if his Lordship should approve of the provisions of the proposed Act, his assent to its being passed without any essential alteration, may at the same time be communicated.

3. You will be pleased to return the draft of Act sent herewith, with your reply.

I have, &c.

(signed) *T. H. Maddock,*

Officiating Secretary to Government  
of India.

Fort William,  
20 August 1838.

Legis. Cons.  
8 Oct. 1838.  
No. 13.

From *W. H. Macnaghten*, Esq., Secretary to the Government of India with the Governor-general, to *T. H. Maddock*, Esq., Officiating Secretary to the Government of India ; dated 13 September 1838.

Sir,

Legislative.

I AM directed to acknowledge the receipt of your letter (No. 487), dated the 20th ultimo, transmitting draft of a proposed Act, for the protection of merchant seamen in the port of Calcutta, and soliciting the Governor-general's sanction for its publication, and assent for passing it into law, if its provisions are approved, and, in reply, to enclose a copy of his Lordship's assent in the usual form.

2. I am desired to add, that the Act of 5 & 6 Will. 4, c. 19, is not available to the Governor-general for reference, but his Lordship has no hesitation in placing full confidence in the opinion of the President in Council, as to the legality of the proposed enactment, and its consistency with the provisions of the Act referred to.

3. The original enclosures of your letter are returned herewith.

I have, &c.

(signed) *W. H. Macnaghten,*

Secretary to the Government of India  
with the Governor-general.

Simla, 13 September 1838.

(Copy.)

Legis. Cons.  
8 Oct. 1838.  
No. 14.  
Legislative.

I do hereby, under section 70, 3 & 4 Will. 4, c. 85, give my assent to the proposed Act, for the protection of merchant seamen in the port of Calcutta, received from the honourable the President in Council, in Mr. Officiating Secretary Maddock's letter (No. 487), dated the 20th August last.

Simla, 13 September 1838.

(signed) *Auckland.*

(True copy.)

(signed) *W. H. Macnaghten,*  
Secretary to the Government of India,  
with the Governor-general.

Legis. Cons.  
8 Oct. 1838.  
No. 15.

THE following Draft of a proposed Act was read in Council for the first time on the 8th October 1838.

ACT, No.        of 1838.

1. It is hereby enacted, that if any master of any merchant ship employed on sea voyages shall, during such time as such ship shall be in the river Hooghly, or mouths thereof, being part of the territories of the East India Company, without the sanction of a magistrate or justice of the peace first had and obtained, discharge any seaman against his will before the time of the expiration of

of the service of such seaman, he shall be liable, on conviction before any justice of the peace exercising jurisdiction within the town of Calcutta, to be punished with a fine not exceeding 100 rupees.

2. And it is hereby enacted, that if any seaman belonging to any merchant ship employed on sea voyages shall, during such time as such ship shall be in the river Hooghly, or the mouths thereof, being part of the territories of the East India Company, without justifiable cause to be proved to the satisfaction of the justice of the peace before whom he may be charged, refuse or wilfully omit to obey the lawful orders of the master of such ship, he shall be liable, on conviction before a justice of the peace exercising jurisdiction within the town of Calcutta, to be imprisoned with or without hard labour, for any term not exceeding three months, if the offence be committed whilst the ship is in progress either to or from the sea, or for any term not exceeding one month if the ship be lying at anchor off the town of Calcutta or Kidderpore.

3. And it is hereby enacted, that in the case of any assault or battery which shall be committed on board any merchant ship employed on sea voyages in the river Hooghly, or the mouths thereof, being part of the territories of the East India Company, it shall be lawful for any justice of the peace exercising jurisdiction within the town of Calcutta to hear and determine any such complaint, and to punish the offender by a fine not exceeding 100 rupees.

*Ordered*, That the draft now read be published for general information.

*Ordered*, That the said draft be re-considered at the first meeting of the Legislative Council of India after the 8th day of December next.

Fort William,  
8 October 1838.

(signed) *T. H. Maddock*,  
Officiating Secretary to Government  
of India.

(No. 407.)

From *T. H. Maddock*, Esq., Officiating Secretary to the Government of India, to *F. J. Halliday*, Esq., Secretary to the Government of Bengal; dated 8 October 1838.

Legis. Cons.  
8 Oct. 1838.  
No. 16.

Sir,

I AM directed to acknowledge the receipt of your letter (No. 1411), of the 10th July last, with its enclosure, and, in reply, to forward to you, for the information of the Honourable the Deputy-governor of Bengal, the accompanying printed copy of draft of proposed Act for the protection of merchant seamen in the port of Calcutta, which has been read in Council for the first time on this date, and will be published for general information in the Calcutta Gazette.

I have, &c.

Fort William,  
8 October 1838.

(signed) *T. H. Maddock*,  
Officiating Secretary to the Government  
of India.

(No. 409.)

From the Government of India to the Honourable the Judges of the Supreme Court at Fort William; dated 8 October 1838.

Legis. Cons.  
8 Oct. 1838.  
No. 17.

Honourable Sirs,

WE have the honour to forward to you, for any observations or remarks which you may desire to offer, the accompanying printed copy of draft of proposed Act for the protection of merchant seamen in the port of Calcutta, which will be published for general information in the Calcutta Gazette.

We have, &c.

Fort William,  
8 October 1838.

(signed) *A. Ross.*  
*A. Amos.*  
*W. Morison.*  
*T. C. Robertson.*

No. 2.

(No. 1994.)

Legis. Cons.  
12 Nov. 1838.  
No. 5.

From *F. J. Halliday*, Esq., Secretary to the Government of Bengal, to *T. H. Maddock*, Esq., Officiating Secretary to the Government of India, Legislative Department; dated 23 October 1838.

Sir,

Judicial Dep.

WITH advertence to your letter (No. 407), dated the 8th instant, giving cover to the draft of a proposed Act for the protection of merchant seamen in the port of Calcutta, I am directed by the Honourable the Deputy-governor of Bengal to forward, for submission to the Supreme Government, the accompanying original letter from the chief magistrate of Calcutta dated the 19th idem, and its enclosures, containing observations in reference to the same subject.

2. I have to request the return of the original documents when no longer required.

I have, &amp;c.

(signed) *F. J. Halliday*,  
Secretary to the Government of Bengal.

Fort William,  
23 October 1838.

Legis. Cons.  
12 Nov. 1838.  
No. 6.

From *D. M'Farlan*, Esq., Chief Magistrate of Calcutta, to *F. J. Halliday*, Esq., Secretary to the Government of Bengal, Judicial Department; dated 19 October 1838.

Sir,

IN connexion with the subject legislated for in the draft Act of the 8th instant, I have the honour to transmit the particulars of a case of theft on board a ship at Fulta, also of an affray, magnified into a dacoity, which occurred on a coasting sloop about the 18th ultimo, below Garden Reach.

2. I was obliged, in obedience to the existing law, to make these cases over for decision to the Allypore authorities, very greatly to the dissatisfaction of the complainants, and it may fairly be a matter for inquiry, whether it would not have tended to promote the attainment of speedy justice at the least expense to witnesses and suitors, if the cases had been triable in Calcutta.

3. To men of the class of the prosecutors and witnesses in these cases, especially that of the "England," it would be an undoubted evil to have to go for justice to Allypore; under the most willing administration of the law, delays and frequent attendances will be necessary, and the means at a mofussil magistrate's command, for taking European evidence, and for translating it into the native tongues, are imperfect.

4. Had it been consistent with the law to retain the cases at Calcutta at all, it would have been necessary to make them over to the Supreme Court; this, in the great majority of shipping cases, would involve great distress to prosecutors, or else failure of justice,\* but in the event of our summary jurisdiction being extended, it might be well to include cases happening on the river, as is proposed in the draft Act in regard to assaults, or perhaps the same power to punish petty thefts there committed, as is possessed by mofussil magistrates, under Regulations IX. of 1807, and XII. of 1818, might very well be entrusted to the Calcutta magistrates.

5. The punishment in the case of natives could be enforced in the mofussil gaol, and an appeal might lie as at present to the commissioner.

6. Any change in the mode of trial of murders, and other serious offences not the subject of magisterial decision in the mofussil, occurring on sea-going ships on the Hooghly, is a question which possibly Government would not entertain at present.

7. It will readily be imagined that in the ships belonging to a thronged seaport like this, cases of theft and other crimes frequently occur at sea, and on the passage from the Sand Heads to the town. Over all felonies committed at sea the Supreme Court only have jurisdiction; over assaults committed at sea the magistrates of Calcutta have jurisdiction (s. 38, 5 Will. 4, c. 19); they should obviously have the power of disposing of petty felonies. Over felonies committed on ships in the river, the Supreme Court, or the courts at Midnapore, Hooghly or Allypore, have jurisdiction, according to the country of the criminal. In regard

to

\* The Sessions close in August, and do not open again till December.

to all classes guilty of petty felonies, the Calcutta magistrates should have jurisdiction in the same manner as the present draft Act provides in regard to assaults committed on the river.

I have, &c.

(signed) *D. M'Farlan,*  
Chief Magistrate.

Calcutta Police Office,  
19 October 1838.

No. 2.  
On giving Power to  
Commissioners of  
Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

#### RIVER CASE.

Chaundpaul Thannah, 15 October 1838.

Captain *Kay*, Commander Ship "England," v. *Woolfut Khidmudgar*.

DEFENDANT is charged with stealing on board the ship "England," then lying near Fultah, on the 13th instant, three coloured neckcloths, value 1 r. 8 a.; one silver watch, No. 3152, value 40 r.

Defendant was taken up yesterday out of the ship "England."

16 October 1838.

*Peter Kay* sworn.—I am commander of the "England;" the watch and handkerchiefs are mine; the value of the watch is about 40 rupees, the handkerchiefs one rupee eight annas; they were in a pair of drawers, and a trunk which were open; they were brought to me by Mr. Childs, near Fultah.

*John Childs* sworn.—Defendant is my servant; he has been so for two months; I found the handkerchiefs here produced between the frame and the canvas of my cot; they were claimed by Captain Kay; on searching my trunk, the key of which the prisoner usually kept, I found the watch here produced; he confessed to me; when I went into the cabin, he drew back alarmed; he was anxious to go ashore.

*Woolfut Khidmudgar* examined; refuses to give any answer.

17 October 1838.

*Archibald Clark* sworn.—The second and third day after the defendant came on board, he said he had a silver fork and pencil-case for sale, and asked me to buy them; he spoke in broken English.

*Edward Mason* sworn.—I saw two silver forks and a pencil-case in defendant's possession; he offered them to me for sale; he spoke broken English.

(True copies.)

(signed) *D. M'Farlan,*  
Chief Magistrate.

#### MEMORANDUM.

CASE of the crew of the sloop "Juggernoth Colloo," against that of the Arab ship "Fattle Rohoman."

Charge of robbery by open violence, preferred by the crew of a small trading sloop, "Juggernoth Colloo," from the coast to Calcutta, against the crew of an Arab ship, "Fattle Rohoman," the foundation of the whole being a collision caused by the freshes, of the two vessels in the night; when the charge was preferred, both vessels were off Calcutta; the principal witnesses, viz. pilots and preventive service men, were also in the town.

(signed) *D. M'Farlan,*  
Chief Magistrate.

(No. 456.)

From *T. H. Maddock*, Esq., Secretary to the Government of India, to *F. J. Halliday*, Esq., Secretary to the Government of Bengal; dated 12 November 1838.

Legis. Cons.  
12 Nov. 1838.  
No. 7.

Sir,

I AM directed to acknowledge the receipt of your letter (No. 1994) of the 23d ultimo, with one to your address from the chief magistrate of Calcutta, containing



No. 2.

On giving Power to  
Commissioners of  
Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

ing observations on the proposed Merchant Seamen's Act, and to state in reply, that the point to which Mr. M'Farlan's remarks apply, namely, the propriety of making petty felonies committed on the river between Calcutta and the sea punishable by the Calcutta magistrates, had better, in the opinion of the President in Council, be left for consideration in conjunction with the Quarter Sessions Bill, about to come before the Legislative Council.

2. The original papers which accompanied your letter are herewith returned.

I have, &c.

(signed) *T. H. Maddock*,  
Secretary to the Government.

Council Chamber,  
12 November 1838.

Legis. Cons.  
20 Sept. 1841.  
No. 1 to 4.

COPY of a Despatch addressed by the Government of India to the Honourable the Court of Directors, in the Legislative Department (No. 21); dated 27 September 1841.

To the Court of Directors.

Honourable Sirs,

IN continuation of our despatch (No. 1) of 1839, dated the 14th January, we have the honour to forward the accompanying correspondence with the Government of Bengal, on an application from the Chamber of Commerce, noticing the difficulty experienced in preventing European seamen shipped in England, from deserting their ships, and in manning such ships afresh in this port.

(signed) *Auckland.*  
*W. W. Bird.*  
*W. Casement.*  
*H. T. Prinsep.*  
*A. Amos.*

Fort William,  
27 September 1841.

(No. 1336.)

Legis. Cons.  
20 Sept. 1841.  
No. 1.

From *F. J. Halliday*, Esq., Secretary to the Government of Bengal, to *T. H. Maddock*, Esq., Secretary to the Government of India, Legislative Department; dated 31 August 1841.

Sir,

I AM directed by the Right honourable the Governor of Bengal to request that you will submit, for the consideration and orders of the Supreme Government, the accompanying extract (No. 194) from the proceedings of the Governor of Bengal in the General Department, dated the 11th instant, with its enclosure, relative to the difficulty experienced in preventing European seamen shipped in England, from deserting their ships, and in manning such ships afresh in this port.

2. You will be pleased to return the original document, with your reply.

I have, &c.

(signed) *F. J. Halliday*,  
Secretary to the Government of Bengal.

Fort William,  
31 August 1844.

(No. 194.)

Legis. Cons.  
20 Sept. 1841.  
No. 2.

Extract from the Proceedings of the Right honourable the Governor of Bengal, in the General Department, under date the 11th August 1841.

READ a letter from the Secretary to the Bengal Chamber of Commerce, dated the 7th instant, soliciting attention to the increased difficulty experienced in preventing European seamen shipped in England, from deserting their ships, and in manning their ships afresh in this port, and suggesting the expediency of vesting the magistracy with fuller authority than is now possessed, to inflict commensurate punishment on sailors who shall be proved to have broken their articles, or to have wantonly deserted their ships after having received their wages in advance.

*Ordered*

*Ordered*, That the above letter be sent in original to the Judicial Department of the Government of Bengal, for consideration in that department.

Order.

(True extract.)

(signed) *G. A. Bushby*,  
Secretary to the Government of Bengal.

From *W. Limond*, Esq., Secretary Bengal Chamber of Commerce, to *G. A. Bushby*, Esq., Secretary to the Government of Bengal, Fort William; dated 7 August 1841.

Sir,

THE Chamber of Commerce desires me most respectfully to solicit the attention of the Right honourable the Governor to the increased difficulty experienced in preventing European seamen shipped in England, from deserting their ships, and in manning them afresh in this port, proceeding, the Chamber feels assured, from the insufficiency of the punishment which awaits seamen who break their articles; finding the rate of wages here higher than that at which they were shipped, they do not hesitate to set those articles at nought, when new crews have to be engaged, and often these, at the last hour, stand on no ceremony in deserting from groundless objections, even after steamers are employed and the ships are actually under weigh, encouraged in such misconduct by the proved inefficiency of the law, and thus great loss is caused to trade by the additional expense which has to be incurred, and still more by the delay.

If required by his Lordship, the Chamber will readily furnish particular instances and proofs of what is advanced; at present, it may suffice to point to two cases of very recent occurrence.

The brig "*Lena*," after having proceeded down as far as Moyapore, was obliged to return to town, because the crew engaged refused to work the ship, being thus subjected to double pilotage and other charges. These men had received their advance of wages in cash before going on board. They were handed over to the police, and have been put into confinement for 30 days, after which they will come out with money in their pockets ready to repeat the trick so lightly punished.

The "*Devon*" shipped eight men, and, on proceeding next morning down the river by steam, they refused to go to sea in her, in consequence of which she was obliged to stop at Diamond Harbour; police officers went down and brought them up, and they were sentenced to confinement in the house of correction. Eight fresh hands had to be engaged, four of whom received advance from the agents in hard cash under promise of joining the boat next day to go down to the ship. These were seen in the bazaar next morning, but the crimps got hold of them, and got three out of the way; the fourth one, indeed joined the boat, but in such a sad state of intoxication, that he laid himself down and died. The money advanced to these men was lost, and ultimately the agents were obliged to hire other hands through the instrumentality of crimps. The ship was thus detained a number of days.

These two instances we cited, as being very recent, but by no means as being of an aggravated nature, and in neither these nor any other instances, have any sufficient reasons been assigned for declining to go to sea in the vessels they had shipped by.

It will rest with the wisdom of his Lordship to apply some remedial measure to the wide-spread evil. With every deference, the Chamber would presume to suggest to his Lordship's consideration the expediency of arming the magistracy with fuller authority than they now possess, by some legislative enactment, empowering them to inflict commensurate punishment on sailors who shall be proved to have broken their articles, or to have wantonly deserted their ships after having received their wages in advance, the short confinement with light labour, the extent of the punishment the magistrates can inflict, being, in practical operation, scarcely any punishment at all.

I have, &c.

Calcutta, Bengal Chamber of Commerce, (signed) *W. Limond*,  
7 August 1841. Secretary.

Legis. Cons.  
20 Sept. 1841.  
No. 3.  
Chamber of Commerce ; Seamen.

MINUTE by the Honourable *A. Amos*, Esq.; dated 15 September 1841.

It will appear from the draft Act sent herewith, which we published, that the second section is precisely what the Chamber of Commerce are now asking for. Possibly the judges might not think us precluded from legislating in the cases of seamen hired in Calcutta, and not under English articles, but an Act so confined would, perhaps, not be worth passing. We can refer the Chamber of Commerce to the second section of our published draft, and observe, that we have sent the papers home, in consequence of some legal difficulties arising out of the Merchant Seamen's Act, but that we will draw attention to the subject again.

(signed) *A. Amos*.

15 September 1841.

(No. 128.)

Legis. Cons.  
20 Sept. 1841.  
No. 4.

From *T. H. Maddock*, Esq., Secretary to the Government of India, to *F. J. Halliday*, Esq., Secretary to the Government of Bengal; dated 20 September 1841.

Sir,

I AM directed to acknowledge the receipt of your letter, No. (1336), dated the 31st ultimo, with enclosure, relative to the difficulty experienced in preventing European seamen shipped in England from deserting their ships, and in manning such ships afresh in this port.

2. In reply, I am desired to request that you will submit to the Right honourable the Governor of Bengal the accompanying copy of a draft of proposed Act (which was published for general information), dated the 8th October 1838. His Lordship will observe that the second section of the draft Act provides measures to remedy the evil complained of by the Chamber of Commerce; but in consequence of some legal difficulties arising out of the Merchant Seamen's Act, his Lordship in Council has considered it expedient to refer the subject to the Honourable the Court of Directors, and their attention will be again drawn to it.

3. The original enclosures of your letter are herewith returned.

I have, &c.

Council Chamber,  
20 September 1841.

(signed) *T. H. Maddock*.  
Secretary to the Government of India.

Legis. Cons.  
11 May 1844.  
No. 4.

EXTRACT from a Despatch addressed by the Government of India to the Honourable the Court of Directors, in the Legislative Department (No. 29); dated 20 December 1844.

Law Commissioners' Report  
relative to English  
Act anent Wages  
due to Merchant  
Seamen.

12. THE Law Commissioners furnished a Report, recorded on the annexed date, in reply to the reference made to them as reported in paragraphs 61 and 62 of the despatch from this department, dated 2d January 1837 (No. 1), on the subject of conferring upon the commissioners of the court of requests so much of the power given by the statute 5 & 6 Will. 4, c. 19, to justices of the peace in England, as relates to the recovery of wages due to merchant seamen. The matter did not claim our immediate attention.

(No. 10.)

Legis. Cons.  
11 May 1844.  
No. 4.

From the Indian Law Commissioners to the Right honourable *Edward Lord Ellenborough*, Governor-general of India in Council; dated 25 April 1844.

Letter from Secretary to Government of India,  
dated 18 July 1836.

WHEN it was in contemplation to make a new enactment touching the jurisdiction of the court of requests, it occurred to the Governor-general of India in Council, that it would be expedient to confer upon the commissioners of that court

court so much of the power given by the statute 5 & 6 Will. 4, c. 19,\* to justices of the peace in England, as relates to the recovery of wages due to seamen, and the Law Commissioners were requested to insert provision to that effect in any draft of an enactment relating to the said court which might be prepared by them.

2. As we have not thought it advisable to recommend an enactment for extending the jurisdiction of the court of requests, we have considered whether it is necessary to make any special provision for the summary determination of the claims of merchant seamen for wages due to them; and, according to the direction of Government, we have given our attention to the whole subject of the jurisdiction over merchant seamen in India under the statute in question.

3. Among the papers formerly communicated to us, we find a letter from the acting Advocate-general at Bombay (now the Chief Justice), in which, in answer to a reference from the Government of that Presidency, he observed that the statute under consideration was drawn up in so loose a manner, that he was unable to give a decided or satisfactory opinion as to its general applicability to British India, but that "the powers given by several clauses in the statute to one or more justices of the peace in any part of His Majesty's dominions, and the powers given by the 51st section to collectors or other chief officers of the customs at the several ports of the United Kingdom, and of the British possessions abroad, unquestionably are conferred on justices of the peace, collectors and chief officers of customs respectively in British India."

4. We think that there can be no doubt of the correctness of this opinion, seeing that the territories under the government of the East India Company are described in the title of the statute 3 & 4 Will. 4, c. 85, as "His Majesty's Indian territories;" and with respect to the term "British possessions," it is prescribed in section 119 of the statute 3 & 4 Will. 4, c. 52, that whenever it shall occur in that statute, or in any other Act relating to the customs, or to trade and navigation, it shall be construed to mean colony, plantation, island, territory or settlement belonging to His Majesty."

5. Among the provisions of the statute in question, to which effect is to be given "by any justice in any part of His Majesty's dominions," are those for enforcing the immediate payment of wages due to seamen. We think it competent to any justice of the peace in any part of British India to act upon the applications and complaints of seamen in regard to their wages, under sections 14 and 15 of the statute, in the manner therein directed; and we do not see any reason for making a different provision in India from that which obtains in the United Kingdom, and other parts of Her Majesty's dominions, in respect to such matters.

6. We think, also, that it is competent to any justice, in any part of British India, to exercise jurisdiction in the cases provided for by sections 6 to 13 of this statute, and under section 53, to adjudge penalties and forfeitures for contraventions of the Act, and to levy the same.

7. We conceive that justices in India, under section 37, may determine claims or complaints of sea apprentices upon or against their masters, and of masters against their apprentices, provided that the apprentices are under indentures agreeably to the Act.

8. Also, that justices in India, under section 38, may take cognizance of common assaults committed on board ship, at sea or out of Her Majesty's dominions.

9. In Bengal, we apprehend, that one justice, by virtue of Act XXXII. of 1838, may exercise jurisdiction under the two sections last mentioned. In other parts of British India, two justices must sit in such cases.

10. Section 41 enacts, that seamen shall not be discharged at any of His Majesty's colonies or plantations, without sanction of the Governor or some functionary appointed by the Government in that behalf.

11. We think there is reason for the doubt expressed by a former Advocate-general, Mr. Pearson, as to the authority of Government to appoint officers to give effect to this section within these territories, inasmuch as they cannot be looked upon as a "colony or plantation," for although it is prescribed by statute, as we have noticed, that the term British possession shall be construed to mean any colony or plantation belonging to His Majesty, it is not prescribed conversely, that by "His Majesty's colonies or plantations," shall be understood "British

\* An Act to amend and consolidate the Laws relating to the Merchant Seamen of the United Kingdom.

Enclosure in Letter from Secretary to Government of India, dated 18 July 1836.

Seamen refusing to join their ships, or absenting themselves; harbouring deserters; claims of seamen for wages in certain cases.

## No. 2.

On giving Power to Commissioners of Court of Requests relating to Recovery of Merchant Seamen's Wages.

possessions" generally; and as there cannot but be inconvenience at ports much resorted to by British shipping, as the principal ports in India are, from the want of authority in any of the functionaries there resident, to license the discharge of seamen when circumstances require it, we would advise that an Act be passed to remedy this defect.

12. We have already intimated, that we concur in the opinion formerly given by the acting Advocate-general at Bombay, that the collector or chief officer of the customs at any port in British India is empowered to act under section 51.

13. It is enacted in section 53, that all penalties and forfeitures incurred under the Act exceeding 20 £., may be recovered "in any of His Majesty's courts of record at Westminster, Edinburgh or Dublin, or in the colonies." We would recommend that the power of adjudging such penalties and forfeitures be extended to Her Majesty's courts in India, and to the courts of the East India Company in places out of the jurisdiction of Her Majesty's court.

14. It has been questioned whether section 2 of this statute, which enacts that no seaman shall be taken to sea without a written agreement, is applicable to British ships proceeding on voyages from ports in British India, with crews engaged there.

15. By the said section, the master of a British registered ship is forbidden "to carry to sea on any voyage, either from this kingdom or from any other place, any seaman or other person, as one of his crew or complement, without first entering into an agreement in writing with every such seaman." We see no reason to doubt that ports in British India are among the "other places" intended by this enactment, and we conclude that the master of a British registered vessel carrying seamen from Calcutta, without having first entered into agreements with them as required, will be liable to the penalty prescribed by section 4.

4 Geo. 4, c. 80.

16. As Lascars are specially provided for by a particular statute, and Regulations made by the Government of India in pursuance of such statute, it may be presumed that seamen of this class are not within the scope of the enactment in question. But we apprehend that it is applicable to all seamen who are to be deemed or taken to be British seamen within the intent and meaning of the navigation laws.

17. The Advocate-general at Bombay was inclined to think that vessels belonging to Bombay or registered there, and the crews of such vessels, are not within the 2d section, because section 54 provides that the Act shall not extend to any ship registered in or belonging to any British colony having a legislative assembly, or to the crew of such ship, while it shall be within the precincts of such colony. He observed that India, strictly speaking, is not a British colony, and has not a legislative assembly, but that the Supreme Government can now make laws, and therefore, and because 2 Geo. 2, c. 36, 2 Geo. 3, c. 31, and 31 Geo. 3, c. 39, did not apply to vessels belonging to or registered in any port in India, and to the crews of such vessels, he concluded that the new Act was not intended to affect them.

18. It is to be observed, that the last of the statutes here referred to applied only to the coasting trade of Great Britain, and that the first, relating to ships trading to foreign parts, which was renewed and made permanent by the second, had not so wide a scope as the present Act, as it did not provide for vessels proceeding to sea from other places than the United Kingdom, but only for vessels beginning and ending their voyages at ports of the United Kingdom.

19. The new Act is extended so as to provide for all vessels belonging to subjects of Her Majesty, of the United Kingdom, and all British registered ships of 80 tons and upwards, proceeding to sea on voyages from the United Kingdom, or other places, and we think it comprehends all ships which, as belonging to or being registered in ports of the British territories in India, are entitled by law to the privileges of British registered ships. With respect to clause 54, we think the description of "colonies having legislative assemblies," was not meant to include the territories under the Government of the East India Company, to which that description is inapplicable, for a "legislative assembly" is a term which seems intended to describe those copies of the British Parliament which exist in British America and in the West Indies, to which there is nothing answerable in the Company's territories.

20. The Advocate-general at Bombay, we observe, appears to have had no doubt of section 2 being applicable to ships registered in Great Britain proceeding on a voyage from Bombay with a crew engaged there.

We submit this our Report for the consideration of your Lordship in Council.

Indian Law Commission,  
25 April 1844.

(signed) *C. H. Cameron.*  
*D. Elliott.*

On giving Power to  
Commissioners of  
Court of Requests  
relating to Recov-  
ery of Merchant  
Seamen's Wages.

#### MINUTE of COUNCIL.

THE subject of the foregoing letter has been disposed of by the Governor-general in Council for the present.

11 May 1844.

From Sir *E. Ryan*, Knt., and Sir *H. W. Seton*, Knt., Judges of the Supreme Court at Fort William, to the Honourable the President of the Council of India in Council; dated 8 December 1838.

Legis. Cons.  
14 Jan. 1839.  
No. 14.

Honourable Sirs,

WE have the honour to acknowledge the receipt of your letter, dated the 8th of October, enclosing for any observation we may desire to offer, a printed copy of a draft of a proposed Act for the protection of merchant seamen in the port of Calcutta.

2. After a careful perusal of the provisions of this draft Act, we beg to submit, for the consideration of the President of the Council of India in Council, that, as at present advised, we are disposed to think the local legislature is not competent to pass the proposed Act. It seems to us, that the Merchant Seamen's Act of 5 & 6 Will. 4, c. 19, is one manifestly of universal policy, and intended to affect all our transmarine possessions, and that it extends to India, though that country is not named.

3. The power of legislating conferred on the Governor-general in Council, by section 43 of 3 & 4 Will. 4, c. 85, provides, that the Governor-general shall not in any way repeal, vary, suspend or affect any provisions of any Act thereafter to be passed in anywise affecting the Company, or the territories, or the inhabitants thereof. We are disposed to think the proposed Act would vary the provisions of 5 & 6 Will. 4, and in so doing, as it seems to us, would exceed the powers of the local legislature.

4. The present letter must be taken to contain the opinions only of the two judges who sign it. We have had an opportunity of seeing the accompanying letter from Mr. Justice Grant to the President of the Council of India in Council; we beg only to observe, that we do not concur in the opinion stated by Mr. Justice Grant, as to the mode in which our communications may be sought in future, and that we are quite satisfied with the course which the Government have hitherto adopted.

We have, &c.

Court House, 8 December 1838.

(signed) *E. Ryan.*  
*H. W. Seton.*

From Sir *J. P. Grant*, Knt., Judge of the Supreme Court at Fort William, to the Honourable the Vice-President and Council of India; dated 7 December 1838.

Legis. Cons.  
14 Jan. 1839.  
No. 15.

Honourable Sirs,

I HAVE perused the letter the judges of the Supreme Court have had the honour to receive from you, dated the 8th of October, enclosing for any observation we may desire to offer a printed copy of a draft of a proposed Act for the protection of merchant seamen in the port of Calcutta.

I am duly sensible of the attention you have done the judges the honour to pay them in submitting to their perusal before its being passed into a law, the draft of a proposed Act of the Legislative Council. But I think it my duty to

## No. 2.

On giving Power to  
Commissioners of  
Court of Requests  
relating of Reco-  
very of Merchant  
Seamen's Wages.

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state, that, except in matters affecting the jurisdiction or functions of the court I have the honour to sit in, with the extent and operation of which the judges must be supposed the most accurately conversant, I should consider the entertaining a desire to offer any observations upon an Act, the passing of which is contemplated by those to whom Parliament has committed the sole power and grave responsibility of making laws for this great empire, inconsistent with the duties of my office, and at variance with a just estimate of my own knowledge and ability.

Upon questions in the law which the Legislative Council of India may desire to put to me, as one of Her Majesty's judges, in reference to any new law which they may propose to make, I have, not without much consideration in a matter involved in great difficulty, and upon which no intimation has been given of the intention of Parliament, decided that it is my duty to give them any opinion, and in the present instance, although it is not so expressed in your letter, I think I may consider your transmission of the draft of the proposed Act to the judges as amounting to a demand of their opinion upon the necessity, as the law now stands, for the passing of such an Act, and upon the competency of the Legislative Council to pass it, although I hope I may be excused for saying that I think it would be more convenient, when the Legislative Council desire the opinions of the judges upon matters of law, that questions should be put in a more precise form, as is the manner adopted upon similar occasions by Parliament at home.

The two questions which I presume to be put upon this occasion, depend upon the question whether the Act of Parliament, 5 & 6 Geo. 4, c. 19, extends to the Queen's dominions under the government of the East India Company in India; I concur in opinion that it does, and that the proposed Act, of which a draft has been submitted to the judges, varies in some respects its provisions, which the statute 5 & 6 Gul. 4, c. 19, having been passed subsequently to 3 & 4 Gul. 4, c. 85, the Governor-general of India in Council is by this last-mentioned Act, sec. 43, prohibited from doing.

Reserving, therefore, to myself the right, if this Act shall be passed into a law, and any case under it shall be brought judicially before me, to alter my opinion if I shall see cause, upon a full argument, and upon further consideration, I am of opinion, as at present advised, that such law in so far as it agreed with the statute 5 & 6 Gul. 4, c. 19, would be unnecessary, and in so far as it differed from it, inoperative.

I have, &c.

(signed) *J. P. Grant.*

Supreme Court-House, Calcutta,  
7 December 1838.

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MINUTE of the Honourable *A. Amos* ; dated 15 December 1838.

Legis. Cons.  
14 Jan. 1839.  
No. 16.

I BELIEVE this Act to be of considerable importance, both as concerns the police of the town and the navigation of the port of Calcutta, and, therefore, it may be expedient to submit it for the consideration of the home authorities. It appears that the Advocate-general and the judges do not take the same view of the English statute. I am disposed to think that the provisions of an Act would not vary the English statute, but would be collateral to it, applying only to the remedy of local grievances not contemplated by the English legislature; however, it would not be prudent to incur the risk of the judges deciding, as it seems probable they would do, that we had exceeded our legislative functions, in which event no good would have been attained, but on the contrary, some disparagement incurred to the Government or the Supreme Court, or both.

With regard to the letter of Sir J. Grant, inasmuch as our request of his opinion has been complied with, it is perhaps, most prudent not to advert to the observations with which that opinion is accompanied; when occasion may require, I think those observations admit of a very satisfactory answer.

15 December 1838.

(signed) *A. Amos.*

**EXTRACT** from a Despatch from the Honourable the Court of Directors  
(No. 11 of 1839) ; dated 24 July 1839.

19. WILL be replied to hereafter, together with the letter under date 14th January (No. 1) 1839.

**61, 62. Expediency of conferring upon the Commissioners of the Court of Petty Sessions at Calcutta certain powers relating to the recovery of Seamen's Wages while in the Port of Calcutta.**

ACT No. XXI. OF 1839.

**Passed by the Honourable the President of the Council of India in Council, on  
the 26th August 1839.**

**AN ACT for the Trial of Prisoners charged with the commission of certain Petty Offences in the Town of Calcutta, and on the River Hooghly.**

**WHEREAS** it is expedient to make further provision in regard to such charges of felony as have been usually determined by justices of the peace, under the authority of the bye-laws for the town of Calcutta, by preventing, as far as is consistent with the attainment of justice, any delay of trial, or inconvenience to prosecutors, witnesses and jurymen, by limiting the powers heretofore exercised by such justices, and by subjecting their proceedings upon convictions for felony to more regular control and revision: and whereas it is also expedient to provide the like remedy in cases of assaults committed in certain parts of the River Hooghly, without the limits of the town of Calcutta, as hath been provided in cases of assaults committed within such limits:

1. It is therefore hereby enacted, that it shall not be lawful for any justices or justice of the peace to sentence any person charged with the commission of any felony within the town of Calcutta, or with the possession of stolen property within the same town, by virtue of any bye-law for the town of Calcutta, or by virtue of such bye-law and under Act IV. of 1835, or otherwise than according to the provisions of this Act; and the 6th section of a certain Rule, Ordinance and Regulation, intituled, "A Rule, Ordinance and Regulation for the good Order and civil Government of the Settlement of Fort William in Bengal," passed in Council on the 26th day of July, in the year of our Lord 1814, and registered in the Supreme Court on the 11th day of November in the same year, is hereby repealed.

2. And it is hereby declared and enacted, that all persons charged with the commission of simple larceny within the town of Calcutta may be tried by any justice of the peace for the said town, provided the value of the property which the prisoner is charged with having stolen, does not, according to the belief of such justice, exceed 20 rupees.

3. And it is hereby provided, that such justice of the peace shall not have power to sentence any such person to be imprisoned with or without hard labour for a longer period than six calendar months, or to be transported.

4. And it is hereby provided, that it shall be lawful for any justice of the peace, before whom any person is charged with the commission of any simple larceny, at his discretion, instead of trying such person himself, to commit such person for trial before Her Majesty's Supreme Court of Justice in Calcutta.

5. And it is hereby enacted, that every such justice, after trying any offender charged with the commission of a simple larceny, shall cause his judgment to be drawn up in the following form of words, or in such other form of words to the same effect as the case shall require, that is to say :

“ Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_ in the  
year of Our Lord \_\_\_\_\_ at Calcutta, A. B.  
is (acquitted, or convicted) before me, J. P., a justice of the peace for the town  
of Calcutta, on a charge of simple larceny, for that he the said A. B. did  
feloniously (here specify the alleged offence, and the time and place when and  
where the same was committed, as the case may be), and I, the said J. P., believe  
272. T the



## No. 2.

On giving Power to  
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Court of Requests  
relating to Reco-  
very of Merchant  
Seamen's Wages.

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the value of the property stolen to amount to a sum not exceeding 20 rupees, that is to say . rupees, and I, the said J. P. adjudge the said A. B. (here state that the prisoner is to be discharged, or the punishment he is to suffer, as the case may be.)

"Given under my hand, the day and year first above named."

(signed) \_\_\_\_\_

6. And it is hereby enacted, that once at least in every term, and oftener if required by Her Majesty's Supreme Court of Justice at Calcutta, every such justice shall transmit to Her Majesty's said Supreme Court of Justice all judgments, whether of acquittal or conviction passed by him, together with the depositions and examinations of the witnesses and prisoners, there to be kept by the proper officer among the records of the Court.

7. And it is hereby enacted, that upon the trial of any prisoner for simple larceny as aforesaid, every such justice of the peace shall require the witnesses against and on behalf of the prisoner to be sworn, or to make solemn affirmation in cases where an affirmation is by law permitted in the place of an oath, and shall cause the depositions of the witnesses and the examination of the prisoner to be reduced into writing, and every such deposition and examination shall be signed by such justice.

8. And it is hereby enacted, that upon the trial of any person charged with the commission of simple larceny before any such justice of the peace as aforesaid, if any person being duly summoned by such justice shall refuse to attend as a witness, or to give evidence, he shall be liable to be punished by Her Majesty's Supreme Court of Justice at Calcutta, in like manner as if he had refused to attend as a witness or to give evidence before Her Majesty's said Supreme Court of Justice.

9. And it is hereby enacted, that upon any conviction for simple larceny as aforesaid, the justice of the peace before whom any person shall be so committed, shall have power to order the restitution of the property stolen, if forthcoming, to the owner or his representative, and in case of its not being restored pursuant to such order, to impose on any person refusing or neglecting to restore the same, a fine not exceeding 20 rupees, and in default of payment to adjudge the person guilty of such neglect or refusal to be imprisoned for the space of one calendar month, unless the property be sooner restored.

10. And it is hereby enacted, that all persons charged with the commission of any assault or battery on board of any merchant ship employed on sea voyages, in the River Hooghly or the mouths thereof, being part of the territories of the East India Company, may be tried before any such justice of the peace, and on conviction shall be liable to be punished by a fine not exceeding 100 rupees, to be levied and enforced in manner provided by Act II. of 1839. And all the provisions of this Act made in the case of charges of simple larceny, shall, as far as they are applicable, be applied in the case of such charges of assault or battery as aforesaid.

11. And it is hereby declared, that nothing in this Act contained shall be construed to affect the remedy of any person aggrieved by the conviction of any justice of the peace, through the means of the writ of Certiorari.

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## — No. 3. —

## ON THE BINDING OF APPRENTICES, AND THE ENCOURAGEMENT THEREOF (WITH DRAFT OF AN ACT).

Dated the 28th November 1844, with connected Papers.

No. 3.  
On the binding of  
Apprentices, and  
Encouragement  
thereof.

From *John Pearson*, Esq., Advocate-general, to *W. H. Macnaghten*, Esq., Secretary to the Government of Bengal; dated Fort William, 5 December 1834.

Bengal Pro-  
ceedings.  
10 Dec. 1834.  
No. 69.

Sir,

I HAVE the honour to acknowledge the receipt of a letter from Mr. Macsween, respecting the case of an apprentice committed by Mr. M'Farlan and Mr. Hoseason to prison.

2. In the case referred to, the point taken was only a preliminary objection, and did not affect the principle of the law.

But on the best consideration that I can give the subject, I am of opinion that the statutes relative to apprentices, and which alone subject them to punishment by the magistrates, any more than any other servants, are not applicable to Calcutta.

3. I cannot be aware of the degree of importance which attaches to this subject; on such point the magistrates must have much better means of information than myself, both as to the evil which exists, and as to the remedy which may be required. But I should recommend that hereafter they do not in similar cases proceed to imprison the offender.

I have, &amp;c.

Fort William, 5 December 1834.

(signed) *John Pearson*,  
Advocate-general.

EXTRACT from a Despatch addressed by the Government of India to the Honourable the Court of Directors, in the Legislative Department (No. 18); dated 14 September 1843, paras. 122 and 123.

Legis. Cons.  
6 Jan. 1843.  
No. 23 to 25.

122. Mr. Fulton, late officiating magistrate at Calcutta, had been induced to prepare the draft of an Act\* for the binding of apprentices, in consequence of several complaints which had been made to him of apprentices leaving their masters, and from the anxiety which the patrons of schools at which the apprentices were educated had shown for the interference of the legislature. The English laws on the subject do not extend to India, and tradesmen hesitate to employ apprentices, knowing that they can have no legal hold over them.

123. We forwarded a copy of Mr. Fulton's letter, and of the draft Act, for the opinion of the Law Commissioners.

From *J. W. Fulton*, Esq., to The Honourable *W. W. Bird*, Deputy-governor of Bengal, and President of the Council; dated 12 December 1842.

Legis. Cons.  
6 Jan. 1843.  
No. 23.

Sir,

I HAVE the honour to enclose, for your consideration, the draft of an Act relating to apprentices, which I have been induced to draw up in consequence of your having advised me to lay the matter before Government.

Since

\* Proposed law for the binding of Apprentices, and for the encouragement thereof.

No. 3.  
On the binding of  
Apprentices, and  
Encouragement  
thereof.

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Since you did me the honour to appoint me to a place upon the magisterial bench, several applications have been made to me in my official capacity by Calcutta shopkeepers, requesting my assistance to enable them to keep their apprentices in order; they have stated to me that they have, upon taking boys from the various schools in Calcutta, been in the habit of having a formal deed drawn up, for the purpose of being enabled to hold such deed in terrorem over their apprentices, though fully aware that such deeds are inoperative, and that no compulsory measures can be adopted to enforce obedience. One evil complained of is, that as soon as a boy has learned his business, and the master has taught him to be useful, the youth leaves his employer's house, and often betrays the confidence which has been reposed in him. The shopkeepers are therefore anxious for an Act, in order that a reciprocity may be established, and that the master may have a few years' gratuitous service from the apprentice, in return for the expense and trouble he has had in teaching the boy his business. The patron of the school at which the boy has been educated is also anxious for the interference of the legislature, in order that he may have some place to send the boy to, in which he knows the boy will be taken care of after he has left the school, instead of being turned adrift upon the world at an immature period of life, whereas at present he complains that the shopkeepers hesitate about employing boys, in consequence of knowing that they have no hold over their apprentices, and that when the boy attains the age at which he is obliged by the regulations to leave the school, the schoolmaster often, especially in the case of orphans, does not know what to do with him.

For the above reasons, I submit that some law should be in force, regulating the relationship of master and apprentice. The English statutes upon the subject are very numerous, but I submit that not one of these statutes extends to India, being wholly from their terms of a local nature; for instance, the fines imposed by many of them upon offenders are set forth in British currency, and in others, parishes and corporations are alluded to. The Act which I have the honour to enclose, is based upon the several Acts in force in England, but principally upon the statute passed upon the subject in the reign of Queen Elizabeth. There are many provisions in the draft which I have no doubt can be improved upon, should you think the subject worthy of consideration; and, in conclusion, I need scarcely add, that any further explanation upon the matter which lies within my power is perfectly at your command.

I have, &c.

Calcutta, 12 December 1842.

(signed) *J. W. Fulton.*

Legis. Cons.  
6 Jan. 1843.  
No. 24.

#### AN ACT concerning the Binding of Apprentices, and for the Encouragement thereof.

Description of  
Masters.

It is hereby enacted, that every person, being an householder and 24 years old at the least, dwelling or inhabiting, or who shall dwell or inhabit in the city of Calcutta, and using any art, mystery, trade or manual occupation there, shall and may, at any time after the passing of this Act, have and retain any person or persons whatsoever coming under the description hereinafter mentioned, to serve and be bound as an apprentice or apprentices, for the purpose of learning such art, mystery, trade or manual occupation respectively.

Description of  
persons who may  
bind Apprentices;  
a license required  
from Two Justices.

2. And it is hereby enacted, that any person or persons who shall or may, from time to time, obtain a license or permission from any two of Her Majesty's justices of the peace for the city of Calcutta, shall and may be entitled, during the continuance of such license or permission, and until the same shall be cancelled or annulled, to bind out any person or persons whatsoever coming under the description in such license or permission contained, to serve an apprenticeship to any such person or persons as aforesaid, who are hereinbefore empowered to have and retain apprentices, and every apprentice so bounden shall be compellable to serve.

Apprenticeships to  
cease on Apprentice  
attaining the age  
of 21.  
In England the age  
is 24.

3. Provided always, and be it enacted, that no person shall, by force or colour of this Act, be bounden to serve any apprenticeship other than such as be under the age of 21 years; and that the apprenticeship of any person or persons who may or shall have been bounden to serve an apprenticeship as aforesaid, shall  
cease

cease and terminate upon such person or persons respectively attaining the age of 21 years.

4. And it is hereby enacted, that the terms of every contract of apprenticeship shall be reduced to writing, that every such writing respectively shall be signed by the apprentice, by the person or persons to whom such apprentice is bound, and by the person or persons who have a license or permission to bind such apprentice as aforesaid, and every such writing shall recite the license or permission under which the person or persons binding out such apprentice acts or act, and shall also specify the art, mystery, trade or manual occupation, for the purpose of learning which such apprentice shall be bounden to serve.

The contract must be evidenced by a writing.

5. And it is hereby further enacted, that no such contract of apprenticeship shall be complete or valid, unless the same shall be registered in the office of the chief magistrate of the city of Calcutta, within one month after the same shall have been signed as aforesaid, such chief magistrate being hereby empowered to take a fee of five rupees for the registering thereof, and in his discretion to refuse to register the same.

And must be registered at the police office.

6. And it is hereby enacted, that no person shall be bound to serve an apprenticeship (excepting as hereinafter mentioned) for a shorter period than five years at the least, and that, upon the expiration of any term of apprenticeship, no master or mistress shall be at liberty to put away any such apprentice, and that no such apprentice shall depart from his said master or mistress, at the end of his or her term of apprenticeship, without one month's warning, given before the time of such putting away or departure, as the case may be, either by the said master or mistress, or by the said apprentice.

No Apprenticeship for a shorter period than five years.

In England seven years is the minimum.

7. And it is hereby enacted, that in the event of the death of any master or mistress of any apprentice, bound under and by virtue of the Act, before the expiration of the term for which such apprentice shall have been bound to serve, that a proportionate part of the premium or fee paid to such master or mistress for taking such apprentice to serve, shall be returned to the person or persons respectively who shall have paid the same to such master or mistress so dying as aforesaid, and the same shall be employed by such person or persons respectively in and towards the binding out of such apprentice to some other person or persons using the same art, mystery, trade or manual occupation respectively, as the master or mistress so dying as aforesaid.

Upon death of Master before expiration of Apprenticeship, a proportionate part of fee to be returned to Apprentice.

8. And it is hereby enacted, that any apprentice whose master or mistress shall die before the expiration of the term for which such apprentice shall have been bound to serve, may be bound to serve another apprenticeship for any period not less than the unexpired portion of the term for which such apprentice shall have been bound to serve to such master or mistress so dying as aforesaid.

Apprentice may be bound to a second Master for remainder of period unexpired on death of Master.

9. And it is hereby enacted, that any one or more of Her Majesty's justices of the peace in and for the city of Calcutta, may, at any time before the expiration of the term for which any apprentice shall have been bound under and by virtue of this Act, discharge such apprentice, and his or her master, from all and every the liabilities and responsibilities incurred by them respectively by such binding out as aforesaid, and wholly terminate and put an end to such apprenticeship as aforesaid.

Apprenticeship contract may be dissolved by Justices.

10. And it is hereby enacted, that every master or mistress, to whom an apprentice shall be bound under and by virtue of this Act, shall be respectively required to lodge, feed, clothe and maintain every such apprentice during the period of his or her apprenticeship, and that every apprentice shall be required to serve and obey his or her master or mistress in all and every reasonable manner.

Duties of Master and Apprentice.

11. And it is hereby enacted, that if upon complaint made before any one or more of Her Majesty's justices of the peace in and for the city of Calcutta, it shall appear to such justice that any master or mistress to whom an apprentice shall be bound under and by virtue of this Act, shall have misused or evil treated any such apprentice at any time within three months before such complaint shall be made, such justice shall direct a summons to issue, calling upon such master or mistress to appear before him, in order that the cause of such complaint may be inquired into.

Upon complaint against Master, Justice to issue a summons, provided complaint is made within three months.

And to proceed  
ex-parte on default.

12. Provided always, that if such master or mistress shall not appear before such justice upon the day appointed in such summons, and it shall appear upon oath, or solemn affirmation in cases where a solemn affirmation is by law permitted in place of an oath, made before such justice, that such summons has been served personally upon such master or mistress, or left at the usual place of residence of such master or mistress respectively, then in such case it shall and may be lawful for such justice, and he is hereby directed to examine into such complaint ex-parte, and to determine whether such master or mistress be guilty of the charge or not.

On conviction to  
punish with fine not  
exceeding 200 Com-  
panies' Rupees, or  
to commit to gaol  
for a period not ex-  
ceeding three  
months.

13. And it is hereby enacted, that every such justice of the peace shall have power, upon conviction of any master or mistress upon a charge of having mis-used or evil treated any apprentice or apprentices bound to serve such master or mistress under and by virtue of this Act, to inflict a fine not exceeding 200 rupees at the most, and in default of payment thereof to commit such master or mistress to the common gaol of Calcutta, for any period not exceeding three calendar months, and if such conviction shall have taken place after an ex-parte examination, the said justice is hereby empowered to issue his warrant under his hand and seal, for the purpose of having such offender brought before him, in order that the said penalty may be enforced, and in default of payment thereof that the said offender may be committed to prison as aforesaid.

Upon complaint  
against Apprentice,  
Justice to issue  
warrant, provided  
complaint is made  
within one month  
after offence ;

14. And it is hereby enacted, that if any master or mistress shall make complaint upon oath, or solemn affirmation in cases where a solemn affirmation is by law permitted in the place of an oath, before any one of Her Majesty's justices of the peace in and for the town of Calcutta, that any apprentice bound under and by virtue of this Act, has been guilty of disobedience, misconduct, insolence or neglect of duty, such justice is hereby empowered in his discretion to issue his warrant under his hand and seal in the first instance, and before summons, for the purpose of having such apprentice brought before him, in order that such complaint may be inquired into ; and if to such justice it shall appear that the said apprentice has been guilty of disobedience, misconduct, insolence or neglect of duty, at any time within one month before such complaint shall have been made, such justice is hereby empowered to send such apprentice to the house of correction for any period not exceeding one calendar month, to be there kept to hard labour, and whilst there (if a male) to be once, twice or thrice privately whipped, if such justice shall so order and direct.

and upon conviction  
to punish with im-  
prisonment in  
house of correction  
for not exceeding  
one month, and to  
order a whipping (if  
a male).

(No. 1.)

Legis. Cons.  
6 Jan, 1843.  
No. 25.

From *F. J. Halliday*, Esq., Officiating Secretary to the Government of India, to  
*J. C. C. Sutherland*, Esq., Secretary to the Indian Law Commissioners ; dated  
6 January 1843.

Sir,

I AM directed by the honourable the President in Council to transmit to you the accompanying copy of a letter from Mr. J. W. Fulton, of the 12th ultimo, together with copy of a draft Act for the binding of apprentices, and for the encouragement thereof, and to request that the Law Commissioners will favour the Supreme Government with their opinion on its provisions.

I have, &c.

6 January 1843.

(signed) *F. J. Halliday*,  
Secretary to the Government of Bengal.

(No. 50.)

Legis. Cons.  
14 Sept. 1844.  
No. 12.

From *T. R. Davidson*, Esq., Officiating Secretary to the Government of India, Home Department, to the Indian Law Commissioners ; dated 14 September 1844.

Gentlemen,

WITH reference to Mr. Secretary Halliday's letter (No. 1.), dated 6th January 1843, and its enclosures, I am directed to request that you will report, for the information

information of the Governor-general in Council, what has been done on the subject of the proposed enactment for the binding of apprentices, and for the encouragement thereof, a draft of which accompanied the above reference.

I have, &c.

14 September 1844.

(signed) *T. R. Davidson*,  
Officiating Secretary to the Government of India.

(No. 24.)

From The Indian Law Commissioners to The Right Honourable Sir *Henry Hardinge*, G.C.B., Governor-general of India in Council; dated 28 November 1844.

Unrecorded.

WE have the honour to report upon the subject referred to us by Mr. Secretary Halliday's letter, dated the 6th January 1843.

2. Mr. Halliday's letter contained a copy of one from Mr. Fulton, then officiating as a magistrate at Calcutta, with the draft of an Act "concerning the binding of Apprentices," which he had prepared in consequence of representations made to him, showing the necessity of some provisions on this subject, corresponding with those of the English statute law, assuming that the English law of apprenticeship does not extend to India.\*

3. Mr. Fulton explained, that the draft was based upon the Acts in force in England, principally upon the Statute of Elizabeth. Its object was to regulate the relationship between master and apprentice, securing on the one hand to the master the means of enforcing the obligations of the apprentice, and on the other hand protecting the apprentice from ill-treatment by the master. It was intended to be in force in the city of Calcutta only, and to be confined to apprenticeship with persons being householders, and using any art, mystery, trade or manual occupation therein. The advantage expected was, that tradesmen, having the services of their apprentices secured to them, would be more disposed to engage young men on the condition of teaching them their craft, and thus qualifying them, after a time, to provide for themselves, and that hereby opportunities would be afforded for the advantageous employment of the youths growing up at the orphan establishments and other like institutions in Calcutta, which now find a difficulty in disposing of them.

4. On considering the subject, it appeared to us proper to inquire first, whether the inconvenience supposed to arise from the want of a law, was of such importance as to require the interference of the legislature to remedy it; and, secondly, whether, if it should be thought advisable for the legislature to interfere, the proposed enactment should not be more extensive than the draft intended, and particularly whether it might not be expedient to provide for binding apprentices to persons engaged in business in the provinces, and also to the masters or owners of sea-going vessels, and vessels employed in internal navigation, according to the rules of the English statutes in regard to parish boys, especially with a view of relieving the orphan establishments.

5. In order to obtain the desired information on these points, we entered into communication with the Chamber of Commerce, and the Trade Association of Calcutta, the Superintendent of Marine, the Comptroller of Government steamers and the Master Attendant, and with the Managers and Governors of the institutions noted in the margin.

6. The Chamber of Commerce and the Trade Association agree in representing that a law of the nature proposed is much required, and would have a very beneficial operation.

7. The Trade Association had the subject under consideration in 1835, when they communicated with the chief magistrate, Mr. M'Farlan, upon it, and they submit a letter from that officer expressing an opinion to the same effect as that which is now given by the association.

8. The Managers of the Orphan Schools say, that if not indispensably requisite, the proposed law is extremely desirable. They intimate that they have not practically

La Martiniere  
Upper and Lower  
Orphan Asylums  
and the Free-  
school.

\* *Vide* opinion of Mr. Pearson, Advocate-general, in letter to Secretary to Government of Bengal, dated 5th December 1834.

No. 3.  
On the binding of  
Apprentices, and  
Encouragement  
thereof.

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practically found difficulty in procuring employment for their boys as apprentices to tradesmen ; but that, on the other hand, they have occasionally felt an unwillingness to apprentice boys, from their conviction that the law does not give them power to protect those who are ill used. They deem it probable, that under the proposed law, they would find greater facilities in procuring for their wards higher descriptions of employment, and a better chance of rising in the world.

9. The Governors of the Free-school state, that for a long time they have found difficulty in apprenticing their wards, from the want of a law to secure to masters the services of apprentices.

10. The Managers of the Orphan Schools are of opinion, that the proposed Act should be extended so as to provide for binding apprentices to persons engaged in business in the provinces, and to the masters or owners of ships, and they give instances from their own experience to prove that some regulation to this effect is necessary.

11. It is stated, that in 1839 four boys of the Lower Orphan School were placed on board Her Majesty's ship "Conway," under an engagement from the commander, Captain Bethune, that so far as he had the power, they should be kept in Her Majesty's service until old enough to choose a profession. This experiment was successful, so far as was known to the managers. On the return of the "Conway" from China, the boys visited the school several times, and were observed to be in excellent health, with a fine manly appearance, and seemed to be much attached to the service. They appear to have gone to England in the "Conway," since which they have not been heard of ; Captain Bethune looked to their eventual employment as able-bodied seamen in the royal navy.

12. The Master Attendant says, that if a system of apprenticing boys, such as are brought up at the orphan establishments, to the sea service could be established, it would tend to supply a want very much felt by the shipping of this country, which is badly provided with a class of men fitted to be steersmen and gunners. He thinks, however, that there would be difficulty in the way of establishing such a system, chiefly because the boys employed in country ships would not be so well fed, nor have the same comforts as at school, which at the outset would render the service disagreeable to them. Could this difficulty be overcome, the service would eventually be better for the apprentices who qualified themselves for the duties of sea cunnies and gunners, than that which is open to the boys of the Lower Orphan Establishments in the army (usually employed as drummers), the pay of sea cunnies being from 12 to 16 rupees, and the pay of a gunner from 25 to 40, with the ship's allowance of food.

13. Captain Johnston, Comptroller of the Government steamers, while he concurs with the Master Attendant in thinking the object desirable, agrees with him also in anticipating difficulties, and to illustrate his views on this point, he mentions an experiment made by the late Mr. Kyd to train boys of the class in question to serve as mariners, which failed, from the dislike of the boys to the duties they were required to perform, though under circumstances more favourable than they would meet with in sea-going country ships.

14. Captain Johnston thinks it would be feasible to have two or more apprentices attached to each of the Government steamers, both inland and sea-going, to be interchanged occasionally.

15. The Superintendent of Marine states, that, under existing rules, the "Amherst" is the only sailing vessel belonging to Government, in which apprentices can be received. He thinks that two or three apprentices might be advantageously received on board of the "Amherst," where they would have as good opportunity perhaps as could be wished, for becoming either good common seamen or officers, according to their abilities and conduct, and he is of opinion that if the Court of Directors would permit apprentices brought forward in this vessel, after due service and proper testimonies from the commander, to have some claim to fill vacancies in the pilot service, such an arrangement would be productive of much advantage to that service. The pilot vessels and other vessels connected with the navigation of the river, he says, could not, under the present rules, afford any opening for the employment of apprentices of the class intended, but he appears to think that it would be an advantage if the lads sent out from England for the pilot service, were bound as apprentices.

16. We observe that in a Rule, Ordinance and Regulation for the Settlement of Fort William in Bengal, passed by the Governor-general in Council on the



21st June 1816, regarding the wages of seafaring men belonging to the port of Calcutta, and the providing of ships and vessels navigating to and from the said port, with seafaring men, provision was made,\* among other things, for binding out any boys descended from European fathers and mothers, who should be chargeable to and supported by any of the orphan or charitable schools in Calcutta, or whose parents should be indebted to charity for their own support, and unable to support their said children, to be apprentices to the sea service. This Regulation was repealed on the 28th July 1825.

17. A new Regulation, containing general rules for Lascars and other Asiatic seamen in vessels trading under the Act 4 Geo. 4, c. 80, was passed by the Governor-general in Council, in pursuance of the said Act, on the 31st January 1828, but no provision has been made since the repeal of the Regulation of 1816, for binding apprentices to the sea service.

18. We do not know whether it was an advised resolution of the Government to repeal the rules of 1816 on this subject, without any substitution for them. We are inclined rather to think that on receiving the Act 4 Geo. 4, c. 80, by which the Government was charged with the duty of making a general Regulation for Lascars and other Asiatic sailors employed in vessels trading under the Act, it was resolved at once, as a preliminary measure, to repeal all the existing Regulations containing rules relating to seafaring men, including of course the Regulation in question, without adverting to the particular provisions it contained relative to apprentices. The new Regulation being confined to the objects indicated in the Act, afforded no room for such provisions; and probably the attention of Government was not again called to the subject.

19. We are not aware that the Government of India has ever legislated on the subject of apprenticeship in any other line than that of the sea service.

20. The Regulation of 1816, regarding sea apprentices, applied only to boys descended from European fathers and mothers. We apprehend that the Act proposed by Mr. Fulton, contemplated not only children of European fathers and mothers, but generally young persons of that description, and also such as are now usually denominated East Indians, brought up according to European manners, and in the Christian religion, not however Hindoos and Mahomedans.

21. In general the communications we have received go upon the supposition that Hindoos and Mahomedans are not intended to be provided for by the proposed Act, and the suggestions contained in them are framed accordingly. But the members of the Trade Association have proposed that the law be adapted for Hindoos and Mahomedans as well as Christians.

22. We have no information to lead us to conclude that a law of apprenticeship is requisite with regard to Hindoos and Mahomedans, and we are not prepared to recommend the application of such a system to them.

23. With respect to the other classes, it appears to be the general opinion that it is expedient to encourage and promote the system of apprenticeship, which already obtains partially, as a good means for instructing young people, especially orphans and others brought up at the various charitable institutions, whose parents are unable to provide for them in arts and trades, and leading to their permanent settlement in employments in which they may find a livelihood, and become useful members of the community; and that it is owing to the want of a law to bind masters and apprentices respectively to their engagements, that this system is not so much followed here as in the circumstances of those classes is desirable.

24. We concur in the general opinion, that it is expedient, as respects young persons of the classes in question, to promote and extend the system of apprenticeship, "conceiving of it as calculated to operate in a certain degree as a source of instruction, and yet in a higher degree in the still more important function of a security for good behaviour." We regard it as supplementary to school education, a means of after discipline and training, as well as a practical method of initiation in arts and trades which require skill.

25. It has long been considered an object of high importance to induce the East Indian youth to apply themselves to trades, instead of seeking the employment of clerks in offices, to which they have hitherto been almost exclusively addicted. For this end every facility should be afforded to their entering into employments of the nature contemplated, in a way in which they may not only acquire the necessary skill, but, in attaining proficiency and expertness, may become habi-



tuated to industry, and learn the value of that steady and diligent attention to business which will most surely lead to success.

26. In England the necessity of apprenticeship, as a means of access to particular trades, has been, in general, abolished, and a perfect liberty established in this respect ; but it appears that apprenticeship, though no longer absolutely necessary as before, continues to be the usual mode of learning a trade, and as such is recognized by law.

27. Still, however, the managers of the poor in England have power to bind the children of paupers as apprentices, and to compel the persons to whom they are assigned to take and keep them, or to pay for their being kept by others. Parish apprentices may also be bound to the sea service, and masters and owners of ships are obliged to take one or more, according to the tonnage of their vessels. So likewise the Regulation of 1816, above-mentioned, obliged the owners of vessels belonging to the port of Calcutta, to take apprentices.

28. The attention of the Poor Law Commissioners having been directed to the system of compulsory apprenticeship, as practised in England in the case of poor children, it has been found to be liable to serious objections. These appear to be referable chiefly to the compulsory nature of the system.

29. It is said, that the mode of allotting the children was not calculated to produce the result proposed to be accomplished by the system, since the children were allotted to rate-payers, whether able to lodge, maintain or clothe them with comfort or not ; and whether they had the means of employing the children or not, in other words, without any regard to the object which it was alleged the directors and acting guardians had in view ; viz. the instruction of the children in a useful trade or calling. Persons unwilling to receive children assigned to them, had the option of paying a fine towards the charge of apprenticing them elsewhere. In such cases it is said the misfortunes of the children were increased. The premiums offered with them proved an irresistible temptation to needy persons to apply for an apprentice, whether they wanted the services of the apprentice or not ; and whether they could instruct him in any useful calling or not. Their sole object often was to secure the premium.

30. The system of compulsory apprenticeship having been found to work ill, it is proposed to discontinue it, and where the guardians of the poor are necessitated to interfere, as in the case of children without natural guardians, to substitute contracts of hiring and service without premium, for indentures of apprenticeship.

31. We contemplate no constraint, no forcing of apprentices upon persons engaged in trade or others ; nor the interference of public bodies in binding apprentices, where the parents of children, or others their natural guardians, are in a condition to do what is necessary in this respect.

32. It is proposed by the Poor Law Commissioners to make arrangements for the industrial education of the children of the poor in district schools, in which they are to be practically trained in workshops for handicraft trades, and to be instructed and practised in the duties of seamen, &c., with the view of qualifying them to be of immediate use in those lines, and thus rendering them eligible for employment on a contract of hire, by master mechanics, masters of ships, &c. But such arrangements seem to be hardly practicable here at present, and the system of apprenticeship appears, under our actual circumstances, to be the only feasible resource.

33. We consider it desirable to render this mode of access to trades, &c. as readily available here as in England, and it appears to us, that by the help of some legal provisions to facilitate the working of the system, so that it may be reciprocally advantageous to the parties, this object will probably be attained.

34. " The master of an apprentice is at the same time master and tutor. Tutor for the art which he teaches, master as to the profit which he derives from him. The work that the apprentice does after the period at which the produce of his labour is worth more than what it costs to develop his talent, is the salary or reward of the master for his former pains and expenses." This must be secured to the master by law. But the reward should be proportioned to the difficulty of the art ; the gratuitous services of the apprentice should not be given to the master for the same period of time when the art to be learned is easy as when it is difficult ; the same return should not be made for instruction which, without much trouble, may be afforded in the course of a year or two, as for that which must be continued during a series of years. The settlement of terms

terms of apprenticeship, therefore, should be left to private adjustment according to circumstances, subject to certain general rules and limitations. All that appears to us to be requisite in a law of apprenticeship, is to lay down such general rules and limitations, and requiring the particulars of every contract to be set forth in a written agreement, to add some easy provisions for the summary enforcement of the engagements of the respective parties.

35. We submit the draft of an Act prepared according to these views.

36. Although we do not recommend the system of apprenticeship as adapted to Hindoos and Mahomedans, and it is declared in the preamble that the Act is intended to apply particularly to the children of persons following European manners and usages, we have thought it proper not to exclude any persons from availing themselves of it, deeming it advisable to avoid as much as possible the appearance of class legislation. In the general terms of the enactment proposed in section 1, we have followed the statute 54 Geo. 3, c. 96.

37. It will be observed, that we have provided in section 6 for binding apprentices to the sea service, both to the owners of private vessels, and for employment in vessels belonging to the East India Company.

38. The English statutes provide for apprentices being bound to the owners or masters of private vessels; but, considering the connexion of a master with a vessel to be very liable to interruption, we have thought it better that the apprentice should always be bound to the owner, and that the master should be regarded as his agent. In the case of apprentices to be employed in vessels of the East India Company, they are to be bound to the Master Attendant, or other officer appointed to represent the Company in this behalf at the port at which they enter.

39. The general enactment in section 1 will admit of apprentices being bound to serve in vessels employed in river navigation in the Company's territories. It will also admit of apprentices being bound to public officers, for employment in the public service. For such cases there is a special provision in section 5, to hold the apprentice bound to the successor of the officer with whom the contract shall have been made, in the event of the resignation or removal of the latter.

40. The restrictions proposed are, that no person shall be bound as an apprentice under the age of 10, nor, if above 13, without his own consent, nor for a term to extend beyond the age of 21, nor to serve at any place out of the Company's territories. The latter provision is meant to prevent the permanent location of an apprentice at a place where the Act could not be enforced.

41. Leaving the term of apprenticeship and all the conditions to be settled by the parties, the draft requires that they shall be distinctly stated in a written contract to be signed by the parties, and registered in a public office, and that any modification of the original conditions which may be subsequently agreed upon shall be certified on the contract, and registered in like manner.

42. It is provided that a contract of apprenticeship may be determined, and also that an apprentice may be assigned to a new master, by agreement of parties, which agreement is to be registered.

43. A contract of apprenticeship is to be considered as determined by the death, or by the bankruptcy or insolvency of the master, unless, in the first case, the executors or administrators of the deceased, or some member of his family, agree with the other parties to the contract to retain the apprentice; but when the contract shall be determined by any such event, if any premium shall have been paid on the binding of the apprentice, the estate of the deceased or of the insolvent, as the case may be, will be liable for a proportionate part thereof. And it is provided that an apprentice shall always be entitled to maintenance for three months after the decease of his master, if it shall happen before the expiration of the term of apprenticeship.

44. Magistrates are empowered to hear complaints of apprentices against their masters or their agents, as the case may be, of misuse or breach of contract, and upon proof thereof to impose a fine upon the offender not exceeding 200 rupees, to be levied by distraint and sale of the goods of the offender, or if the offender shall not be the master, of the goods of the master also, as responsible for the agent under whom he shall have placed the apprentice; and if the fine is not paid, and cannot be levied by distress, to commit the offender to prison for a period not exceeding two months. Magistrates are further empowered in such cases to discharge the apprentice, and to order a refund of a proportionate part of the premium which shall have been paid on his account, and the levy thereof, if

Sect. 3.  
Sect. 4.

Sect. 8.  
Sect. 9.

Sect. 10, 11, 12.  
Sect. 13.

Sect. 16.  
Sect. 17.

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Sect. 22.

Minute of Evidence  
before Lords' Com-  
mittee, on the  
Third Report on  
Criminal Law,  
1838, p. 8.

necessary, by distress and sale of the goods of the master, and failing the recovery thereof, to commit the master to prison for a period not exceeding two months.

45. On the other hand, magistrates are empowered to punish apprentices on the complaint of their masters. The punishments we propose are imprisonment and hard labour for a period not exceeding three months, for which may be substituted solitary confinement in any suitable place in or out of prison, for a period not exceeding three weeks, and in the case of boys of tender years, corporal punishment to the extent authorized by section 2, Act III. of 1844; or close confinement in the house of the master, or on board the vessel to which the apprentice may belong, with a short allowance of food, for a period not exceeding one month.

46. It is held, that by the law of England a master may correct and chastise his apprentice for neglect or other misbehaviour; and by statute, magistrates are empowered to cause defaulting or offending apprentices "to be corrected," besides being kept in confinement and held to hard labour, by which it is understood that they may inflict upon such apprentices corporal punishment at their discretion. We have thought it proper to limit the power of the magistrate in this respect as above defined. We are not aware that solitary confinement is prescribed by any English statute as a punishment for offences of this sort, but it appears to us to be very suitable to such cases, as it saves the offender from the contamination which can scarcely be avoided in mixing with other prisoners, while it is likely to be very efficacious. This mode of punishment was recommended for juvenile offenders by Mr. Starkie, one of the Commissioners for Inquiry into the state of the Criminal Law, in his evidence before the Lords' Committee in 1838, for reasons which appear to us to apply exactly to the cases under consideration. "I conceive," said he, "that the most serious punishment, even as regards hardened offenders, consists in depriving them of their ordinary gratifications and intercourse with those of their own habits and mode of life. When such indulgences as society are allowed in prison, a great deal of the effect of imprisonment is done away with, indeed it almost ceases to be a punishment. There is nothing they feel so much, I am persuaded, as the prevention of their accustomed gratifications."

47. A strong reason for preferring solitary confinement as a punishment for apprentices is, that from the shorter duration of it the master is put to less inconvenience by his absence from work.

48. Considering the unfitness of gaols, in the interior particularly, for the confinement of apprentices of the classes to which the proposed Act is meant to apply, more especially females, we have thought it proper to make a provision authorizing a magistrate, at his discretion, to sentence an offending apprentice to be confined for a short period in the house of his master, or on board of the vessel to which he belongs, and during such confinement to suffer a privation of food. This provision seems to be necessary for the purpose of enforcing discipline, and with the check which will be in the power of the magistrate, of requiring the apprentice to be brought before him at the termination of his confinement, it does not appear to us that it is likely to be abused.

49. Section 23 authorizes magistrates to dissolve a contract of apprenticeship, on proof of wilful and continual misconduct on the part of apprentice.

50. By section 24, the period for preferring complaints by masters against their apprentices is limited to one month, and by apprentices against their masters to three months. We think it necessary to make this difference in favour of apprentices, on account of their youth and inexperience, which will generally prevent them from seeking redress of themselves for injuries done to them by their masters, and to afford time to their friends to interfere.

51. By section 30, for the purpose of this Act British subjects out of the jurisdiction of Her Majesty's courts are made amenable to the magistrates of the East India Company, and by section 31, an appeal is allowed to the courts of session.

We submit this our Report for the consideration of the Right honourable the Governor-general in Council.

(signed) C. H. Cameron.  
D. Elliott.

## DRAFT of an ACT concerning the Binding of Apprentices.

**WHEREAS** it is expedient to facilitate the setting out, and instruction of the children of persons inhabitants in the territories under the Government of the East India Company, following European manners and usages, particularly orphans and destitute children brought up by public charities, in arts, trades, crafts and employments, by which when they come to mature age, they may be enabled to gain a livelihood: And whereas it is considered proper, for this end, to promote the system of apprenticeship, which has partially obtained hitherto, by legal provisions, calculated to render the contract between master and apprentice effectual for the reciprocal benefit of the parties:

1. It is hereby enacted, that it shall be lawful for any person inhabiting in any part of the territories under the Government of the East India Company, to take, retain or become an apprentice.

2. Provided, that no person shall be bound as an apprentice except by his parent or guardian; and it is hereby declared, that an orphan or destitute person brought up by any public charity, may be bound by the governors, directors or managers thereof, as his guardians, for this purpose.

3. And provided that no person shall be bound as an apprentice who is under the age of 10 years, and that no person above the age of 13 years shall be so bound without his own consent, and that no person shall be so bound for a term to extend beyond the time at which he will attain the age of 21 years.

4. And provided that no person shall be bound to serve as an apprentice out of the territories of the East India Company, except on board a ship or vessel.

5. And it is hereby enacted, that when any person shall be bound as an apprentice to any officer of Government as such, for employment in the public service, in the event of the resignation or removal of such officer, the apprentice shall be considered as bound in the same manner to his successor.

6. And it is hereby enacted, that any boy being of the age of 13 years, may be bound as an apprentice in the sea service to any of Her Majesty's subjects, being the owner or owners of any registered ship or vessel belonging to and trading from any port in the said territories, declared to be a registering port under Act X. of 1841, to be employed in any such ship or vessel the property of such person, and while so employed, to be instructed in the craft and duties of a seaman, provided that the master of such ship or vessel shall be a British subject; or for sea service in any ship or vessel of the East India Company belonging to any such port, commanded by a British subject, in which case the contract shall be made with the Master Attendant at such port, or any officer appointed to represent the East India Company in this behalf, who shall appoint the ship or vessel in which such apprentice is to serve from time to time.

7. And it is hereby enacted, that the master or commander of any ship or vessel in which an apprentice bound under the last section, shall be appointed to serve by the party to whom he is bound, shall be deemed the agent of such party for the purposes of this Act.

8. And it is hereby enacted, that every contract of apprenticeship shall be reduced to writing, which writing shall set forth distinctly the conditions agreed upon, particularly specify the age of the apprentice, and the term for which he is bound, what he is to be taught, where and how he is to be employed, and whether, under the immediate superintendence and direction of the Master, or of an agent for him, and what provision is to be made for his maintenance, lodging and clothing, especially whether he is to be lodged and boarded in the house, and as a member of the family of the master, or of his agent or otherwise, or if the apprentice shall be bound to serve in a sea-going vessel, or in a vessel employed in river navigation, where his berth is to be on board, and how and with whom he is to mess, and what provisions, clothing and bedding are to be supplied to him, and how he is to be provided for when he is not on board.

9. And it is hereby enacted, that every such contract shall be in duplicate, and that each copy shall be signed by the person to whom the apprentice is bound, and by the person or persons by whom he is bound, and by the apprentice himself when he is above the age of 13 years, provided that when the apprentice is bound by the governors, directors or managers of a public charity, the signature

ture of two of them, or of their secretary or officer on their behalf, shall be sufficient.

10. And it is hereby enacted, that no such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been registered in the office of the chief magistrate of the place or district where it has been executed, or if the apprentice shall be bound to the sea service, in the office of the person appointed under Act X. of 1841, to make registry of ships and vessels at the port where the apprentice is to enter on the said service.

11. And it is hereby enacted, that when the apprentice is bound to serve at some other place than that where the contract has been executed, out of the jurisdiction of the magistrate in whose office it has been registered, the master, within one month after the arrival of the apprentice at such place, by himself or by his agent under whom the apprentice is to be employed, according to the contract, shall apply to the chief magistrate of the district to register the contract in his office.

12. And it is hereby enacted, that if the master shall fail to register the contract within one month, as directed in the last section, he shall not be entitled to apply to a magistrate to take cognizance of any cause of complaint he may have against the apprentice, in the manner hereinafter provided, but it shall nevertheless be competent to any magistrate to take cognizance of complaints against the master, on application made to him on behalf of the apprentice.

13. And it is hereby enacted, that when by the contract of apprenticeship the apprentice is bound to serve at a certain place or in a certain district, or in a certain trade or business, and the master desires to remove him to some other place or district, or to employ him in some other trade or business, or in any other way than as stipulated in the contract, he shall be at liberty to do so with the consent of the person or persons by whom the apprentice was bound, and with the consent of the apprentice himself, if he is above the age of 13 years, provided that the alterations agreed to shall be expressed in writing on each copy of the contract, with the signature of the proper parties, according to section 8, and shall be registered in the office of the chief magistrate of the place or district where the apprentice shall have been employed.

14. And it is hereby enacted, that when an apprentice shall be removed under the last section, the provision of section 11 and section 12 shall be applicable.

15. And it is hereby enacted, that in the case of a sea apprentice, when the contract of apprenticeship is registered as above directed, the name and description of the vessel in which such apprentice is to serve, and the name and description of the master or commander thereof, as a British subject, shall be certified on each copy of the contract, with the signature of the master of the apprentice, and shall be entered in the book of registry; and that if the apprentice shall be transferred to any other vessel, the transfer shall be noted and registered in like manner.

16. And it is hereby enacted, that a contract of apprenticeship may be determined at any time before the expiration of the term specified in it, by the consent of all the parties, provided that such consent shall be certified in writing on each copy of the contract, with the signature of all the parties, according to section 9, and shall be registered in the office where the contract was first registered, or in that of the chief magistrate of the place or district where the apprentice shall have been last employed.

17. And it is hereby enacted, that the master of any apprentice bound under this Act may, with the consent of the persons by whom he was bound, and with the consent of the apprentice himself, and not otherwise, assign such apprentice to any other person who is willing to take him for the residue of the term mentioned in the contract of apprenticeship, and subject to the conditions thereof, provided that such person shall, by endorsement under his own hand on each copy of the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively; and that such assignment shall be registered in the office where the contract was first registered, or in that of the chief magistrate of the district where the apprentice shall have been last employed.

18. And it is hereby enacted, that upon complaint made to any magistrate in the said territories, by or on behalf of any apprentice bound under this Act, of  
misusage,

misusage, or of refusal or neglect to provide for him, or to give him instruction, according to the contract of apprenticeship, or of cruelty or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, if it shall appear to the magistrate that there is cause for the complaint, it shall be lawful for him to summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint, and at such time, whether the master or his agent be present or not (service of the summons being proved), to examine into the matter of the complaint, and upon proof thereof, to impose upon the offender, whether he shall be the master or his agent, a reasonable fine, not exceeding 200 rupees, and if the offender shall not pay the fine, to levy the same by distress and sale of his goods and chattels, and in case the offender shall not be the master, but his agent, by distress and sale of the goods and chattels of the master also, and if there shall not be found sufficient goods and chattels whereon to levy the same, to commit the offender to prison until the fine shall be discharged, provided that he shall not be kept in prison for a period exceeding two months, and provided, that if sentence shall have been passed after an ex-parte investigation, the offender shall not be committed to prison until he has been brought before the magistrate, and having been personally called upon to discharge the penalty, has failed to do so.

19. And it is hereby enacted, that in a case in which a magistrate shall have passed sentence upon the master of an apprentice or agent under the last section, it shall be lawful for him, at his discretion, to adjudge that the apprentice shall be discharged, and if any premium shall have been paid on the binding of such apprentice, to make an order upon the master to refund the whole or any part thereof; and in case the sum ordered to be refunded by such master shall not be paid to the person or persons directed in every such order to receive the same, to levy the same by distress upon the goods and chattels of such master, with the costs and charges of such distress, and if there shall not be found sufficient goods and chattels whereon to levy the same, to commit such master to prison for any term not exceeding two months, unless the sum ordered to be refunded, with all costs, shall be sooner paid and satisfied.

20. Provided that when the master of an apprentice shall have been committed to prison in default of payment of a fine imposed under section 18, the imprisonment to which he may be subjected under the last section, in default of payment of the sum ordered to be refunded, shall not extend beyond the time which, in addition to the term ordered under section 18, shall make up the period of three months.

21. And it is hereby enacted, that when a magistrate shall order the discharge of an apprentice under section 19, any sum that may be levied under section 18, together with the whole or a part of any sum that may be levied under section 19, shall be applied, at the discretion of the magistrate, for the purpose of binding or placing out the discharged apprentice with a new master, or otherwise for his use and benefit.

22. And it is hereby enacted, that upon complaint made by any master of an apprentice bound to him under this Act, or by his agent, against such apprentice, to any magistrate of any place or district in the said territories where such apprentice shall be employed, or in the case of a sea apprentice, where he shall be in the course of his employment, of any misdemeanor, misconduct or ill-behaviour of such apprentice; or if such apprentice shall have absconded, upon complaint made thereof by the master or his agent, to any magistrate of the place or district where such apprentice shall be found, or where he shall have been employed, it shall be lawful for any such magistrate in the latter case to issue his warrant for apprehending such apprentice, and in either case to hear and determine the complaint, and to punish the offender by committing him to a house of correction, or to prison, there to be held to hard labour for a reasonable time, not exceeding three months, or if the offender be a boy of such tender years as to make punishment in the way of school discipline more suitable, by inflicting on him corporal punishment, not exceeding 10 stripes with a light rattan; provided that it shall be lawful for the magistrate, instead of committing such offender to a house of correction, or to prison to be held to hard labour as aforesaid, to pass an order for his being kept in solitary confinement in any suitable place, in or out of prison, for a period not exceeding three weeks, or if the magistrate deem any such punishment unfitting, to pass an order to the



master of the apprentice, or his agent, to keep the offender in close confinement in his own house, or on board the vessel to which he may belong, upon a reduced diet, for a period not exceeding one month, and at his discretion to direct that at the expiration of the stated period the apprentice shall be again brought up before him, that he may satisfy himself that he has been properly dealt with.

23. And it is hereby enacted, that it shall be lawful for the magistrate, on proof of wilful and continual misconduct on the part of the apprentice, whereby it shall appear that he is incorrigible, and on the demand of the master, to adjudge that the contract of apprenticeship shall be determined; provided that it shall be at the discretion of the magistrate, on a consideration of the circumstances, to order the refund of a part of any premium that may have been paid to the master on binding such apprentice, to the person or persons by whom it was paid on behalf of such apprentice.

24. Provided always, that no magistrate shall entertain a complaint on the part of a master against an apprentice, under this Act, unless it be preferred within one month after the cause of complaint shall have arisen, or if the cause of complaint shall have arisen on board a ship or vessel on a voyage, within one month after the arrival thereof at a port or place in the said territories; and that no magistrate shall entertain a complaint on the part of an apprentice against his master, or the agent of his master, under this Act, unless it be preferred within three months after the cause of complaint shall have arisen, or if the cause of complaint shall have arisen on board a ship or vessel on a voyage, within three months after the arrival thereof at a port or place in the said territories.

25. And it is hereby enacted, that if the master of any apprentice shall die before the expiration of the term for which such apprentice shall have been bound, the contract of apprenticeship shall be considered as determined; provided that if any premium shall have been paid to such master on the binding of the apprentice to him, a proportionate part thereof shall be returned by the executors or administrators, out of the estate of the deceased, to the person or persons who shall have paid the same, to be employed by such person or persons towards the binding out such apprentice to a new master, unless the executor or administrator of the deceased master, or some member of his family living with him at the time of his death, shall continue the business in which such apprentice shall have been employed, and shall, within three months from the decease of the late master, make offer in writing to retain the apprentice on the terms of the original contract, in which case the estate of the deceased shall be discharged from all liability on account of such premium.

26. And it is hereby enacted, that if such offer to retain the apprentice shall be made as aforesaid, and shall be consented to by such apprentice, and the person or persons by whom he shall have been bound, the same shall be fully expressed and certified on each copy of the original contract of apprenticeship, with the signatures of the parties respectively, and such certificate shall be registered in the office of the chief magistrate of the place or district where such apprentice shall have been employed, or in the case of a sea apprentice, in the office in which the original contract shall have been registered, and the apprentice shall be considered as bound to the person or persons so retaining him for the remaining part of the term specified in the said contract.

27. Provided always, that if the master of any apprentice bound under this Act shall die during the term of apprenticeship, such apprentice shall be entitled to maintenance for three months from and after the decease of his master, out of the assets left by him, provided that during such three months such apprentice shall continue to live with and serve as an apprentice the executor or administrator of such master, or of such person as he shall appoint.

28. And it is hereby enacted, that when a commission of bankruptcy shall be issued against any person to whom an apprentice shall have been bound under this Act, or when such person shall be adjudged to have committed an act of insolvency, such apprentice shall be discharged from all obligation under the contract of apprenticeship, provided that if any premium shall have been paid on binding him as an apprentice, the person or persons by whom he shall have been bound shall be entitled to claim a proportionate part thereof as a debt against the estate of the bankrupt or insolvent.

29. And it is hereby enacted, that when application shall be made to a magistrate, or other registering officer for the registration of an original contract of apprenticeship under section 10, or of a certificate of the consent of parties to the

the removal of an apprentice from the place at which he was originally bound to serve, or to any other alteration of the contract under section 14, or of a certificate of the transfer of a sea apprentice from one vessel to another under section 15, or of a certificate of the consent of parties to the determination of a contract of apprenticeship under section 16, or to the assignment of an apprentice under section 17, or to the retaining of an apprentice after the death of the master to whom he was bound, by the executor or administrator, or a member of the family of the deceased, under section 25, without which registration such acts respectively shall not be valid; it shall be at the discretion of the magistrate or officer to call for the attendance of the parties before him, to attest the contract or certificate, provided that on every such occasion the magistrate or officer shall require the apprentice to be brought before him, whether the other parties shall be required to attend in person or not; and provided that whenever any such registration shall be made, a certificate of the registration shall be made on each copy of the contract, and signed by the magistrate or other registering officer.

30. And it is hereby enacted, that for the purpose of this Act, all British subjects, as well as other persons in the territories of the East India Company, without the local limits of the jurisdiction of Her Majesty's Supreme Courts, shall be amenable to the jurisdiction of the magistrates of the East India Company.

31. And it is hereby enacted, that from any sentence or order passed by any magistrate without the local limits aforesaid, an appeal shall lie to the Court of Session, to which such magistrate shall be subordinate, provided the appeal be made within one month from the date of the sentence or order.

32. And it is hereby enacted, that the words, "master," "person" and "he" in this Act, shall be understood to include several persons, as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there be something in the context repugnant to such construction.

(signed) *C. H. Cameron.*  
*D. Elliott.*

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(True copies.)

East India House, }  
April 1845. }

*T. L. Peacock,*  
Examiner of Indian Correspondence.

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## EAST INDIA.

RETURN to an Order of the Honourable The House of Commons,  
dated 16 May 1845;—for,

COPY "of a DESPATCH addressed by the Court of Directors of the East India Company to the Governor-General of *India*, calling his attention to the question of RAILWAY COMMUNICATION in that Country."

East India House, }  
21 May 1845. }

JAMES C. MELVILL.

*Ordered, by The House of Commons, to be Printed, 28 May 1845.*

### COURT OF DIRECTORS TO THE GOVERNMENT OF INDIA.

#### OUR GOVERNOR GENERAL OF INDIA IN COUNCIL.

Legislative Department, 7 May (No. 11) 1845.

Para. 1. IN consequence of applications from private parties for our co- Railroads. operation in forming Railroads on an extensive scale in different parts of India, we have been led to take into consideration the general principles by which our proceedings on this most important subject ought to be regulated. Copies of the papers received from those parties are transmitted as numbers in the packet.

From Messrs. White and Borrett	-	8th November 1844;
Mr. Stephenson	-	2d December 1844;
Ditto	-	13th December 1844 (with enclosure);
Sir G. Larpent and Mr. Stephenson	-	30th December 1844;
Ditto	-	28th January 1845;
Chairman of East India and China Association, with Resolutions	-	25th February 1845.
Printed Papers: Prospectus of Great Indian Railway Company, with Supplement; Report, &c. on Railways, by Mr. Stephenson.		

2. The advantage of Railroads is available only where proportionately large returns can be obtained to meet the great expense, first of constructing, and then of working them. According to the experience of this country, by far the largest returns are procured from passengers; the least from the traffic of goods. The condition of India is in this respect directly the reverse of that of England. Instead of a dense and wealthy population, the people of India are poor, and in many parts thinly scattered over extensive tracts of country. But, on the other hand, India abounds in valuable products of nature, which are in a great measure deprived of a profitable market by the want of cheap and expeditious means of transport. It may therefore be assumed that remuneration for Railroads in India must, for the present, be drawn chiefly from the conveyance of merchandize, and not from passengers. It cannot admit of question, that wherever railroad communication can be advantageously introduced and maintained, it is eminently deserving of encouragement and co-operation from the Government.

3. Independently of the difficulties common to Railroads in all countries, there are others peculiar to the climate and circumstances of India, which may render it advisable that the first attempt should be made on a limited scale. These peculiar difficulties may be classed under the following heads; viz.

1st. Periodical rains and inundations.

2d. The continued action of violent winds, and influence of a vertical sun.

3d. The ravages of insects and vermin upon timber and earth-work.

4th. The destructive effects of the spontaneous vegetation of underwood upon earth and brick-work.

5th. The unenclosed and unprotected tracts of country through which railroads would pass.

6th. The difficulty and expense of securing the services of competent and trustworthy engineers.

4. Under all the considerations above adverted to, and with reference to the entire want of definite and scientific information relative to the applicability of railway communication to India, we deem it indispensably necessary that the subject in all its bearings should undergo the accurate investigation of competent persons on the spot. We propose for this purpose to depute to India a skilful engineer, fully and practically acquainted with the construction and working of Railways in this country, and, if possible, in America likewise, to be associated with two engineer officers in our service, to be selected by you with great care, as fully qualified to conduct the investigation required. One object of this committee will be to suggest some feasible line of moderate length as an experiment for railroad communication in India.

5. In submitting to us the result of the proposed investigation, you will state in what respects the views of the engineers have your concurrence. You will also specify the nature and terms of the charter in your judgment proper to be granted to any Railway Company in India, which may desire to undertake such a Railroad, as well as the mode in which a similar charter from the Crown may be best brought into concurrence and harmony with that granted by the Indian Legislature.

6. In the applications on the subject which have been addressed to us, it is contemplated that Railroads in India should be constructed and managed, as they are in this country, by means of private enterprise and capital. In that view of the subject we are disposed to concur. But it will be necessary to make provision, as Parliament has latterly done, that the Government should have the command of railroad communication for its own purposes, on payment of a reasonable remuneration, and that at least the great trunk lines should, on settled terms, be liable to become ultimately the property of Government.

7. It will be necessary to lay down the rules under which railroad undertakings are to be sanctioned, and with that view we desire that the following may receive your consideration, and that you will submit to us such suggestions as you may have to offer ; viz.

1st. That the intended line of communication, in the first instance, and, at a subsequent period, the detailed plans and estimates, be submitted for examination to the Government.

2d. That the constitution and terms of agreement of the proposed Company be in like manner submitted to the Government.

3d. That the books and accounts of the Company be at all times open to the inspection of officers to be appointed by the Government.

4th. That the rate of profit shall not exceed a proportion to be fixed ; and that the Government shall have power to reduce the rates of conveyance, so as that they may not exceed that proportion.

5th. That, if satisfied on these points, the Indian Legislature shall grant a charter of incorporation, and that the Court of Directors shall concur in applying for the grant of a similar charter in England.

6th. That the Government shall, by all proper means, facilitate the surveys, and other operations of the Company, as well as the necessary purchase of land, and generally promote the success of the Undertaking.

8. With regard to a guaranteed return on the capital laid out, which the parties who have applied to us request, we consider that mode of co-operation liable to many objections, and likely to prove very unsatisfactory. When the information now called for shall have been received, we shall be prepared to take into consideration the mode and extent of such pecuniary assistance as it shall

ON RAILWAY COMMUNICATION IN THAT COUNTRY. 3

shall be proper for the Government of India to afford towards the execution of at least the first approved Line of Railroad in that country.

9. We feel assured, that you will give your best consideration to the subject now referred to you, as one in which the interests of India are deeply concerned, and that, without loss of time, you will earnestly endeavour to carry into effect the views explained in this letter, and will report the result for our further instructions.

We are, &c.

London, }  
7 May 1845. }

(signed) *H. Willock,*  
*J. W. Hogg,*  
&c. &c.

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(True copy.)

East India House, }  
21 May 1845. }

*T. L. Peacock,*  
Examiner of India Correspondence.

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**EAST INDIA.**

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COPY of a DESPATCH addressed by the Court of Directors of the East India Company to the Governor-General of *India*, calling his attention to the question of RAILWAY COMMUNICATION in that Country.

(*Mr. William J. Hamilton.*)

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*Ordered, by The House of Commons, to be Printed,  
28 May 1845.*

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327.

*Under 1 oz.*

# E A S T I N D I A.

RETURN to an ORDER of the Honourable The House of Commons,  
dated 16 June 1845;—for,

A RETURN “ showing the SICKNESS, MORTALITY, and INVALIDING in the Honourable East India Company’s Armies, in the Presidencies of *Bengal*, *Madras*, and *Bombay* respectively, from the Year 1825 to 1844 inclusive :”

“ Also, RETURN of the SICKNESS, MORTALITY, and INVALIDING of their Civil Service, in each Presidency, from 1825 to 1844 :”

“ Also, RETURN of the SICKNESS and MORTALITY in the Gaols and Civil Hospitals in the Presidencies and Dependencies of *Bengal*, *Madras*, and *Bombay* respectively, from 1825 to 1844 respectively :”

“ Also, RETURN of the SICKNESS, MORTALITY, and INVALIDING in the Honourable East India Company’s Indian Navy.”

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*Ordered, by The House of Commons, to be Printed, 9 August 1845.*

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A RETURN of the SICKNESS, MORTALITY, and INVALIDING in the Honourable East India Company’s Indian Navy (1825 to 1844).

FROM 1 May to 30 April		SICKNESS.*	MORTALITY.	INVALIDING.*	DESERTION.	DISCHARGED.†
1825	1826	- - -	23	- - -	38	104
1826	1827	- - -	15	- - -	5	43
1827	1828	- - -	15	- - -	21	33
1828	1829	- - -	31	- - -	43	57
1829	1830	- - -	16	- - -	23	62
1830	1831	- - -	25	- - -	7	44
1831	1832	- - -	20	- - -	4	57
1832	1833	- - -	18	- - -	27	103
1833	1834	- - -	13	- - -	10	66
1834	1835	} No returns.				
1835	1836					
1836	1837	- - -	11	- - -	10	90
1837	1838	- - -	19	- - -	- - -	54
1838	1839	- - -	20	- - -	- - -	66
1839	1840	- - -	17	- - -	- - -	62
1840	1841	- - -	20	- - -	- - -	110
1841	1842	- - -	31	- - -	- - -	96
1842	1843	- - -	77	- - -	- - -	171
1843	1844	Not yet received.				

\* The returns from India do not afford information on these heads.

† This number is supposed to include invalids, as well as those who have obtained their discharge either by serving their time (three or five years) or by procuring substitutes to serve for them.

Marine Department, East India House, }  
4 August 1845.

*J. C. Mason.*



EAST INDIA.

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A RETURN of the SICKNESS, MORTALITY, and  
INVALIDING in the Honourable East India Com-  
pany's Indian Navy (1835 to 1844).

(*Mr. Hume.*)

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*Ordered, by The House of Commons, to be Printed,  
9 August 1845.*

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## **EAST INDIA.**

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**RETURN** to an **ORDER** of the Honourable The House of Commons,  
dated 17 April 1845;—for,

A **COPY** of “so much of the **DESPATCH** sent out by the Court of Directors of the Honourable the East India Company, on the 18th day of December 1844, as relates to the discountenancing of any connexion of the Company’s Servants with attendance of Devotees upon the Ceremonies of the Temple of Juggernaut, and any arrangements sanctioned or directed for the Discontinuance of Pecuniary Payments towards the Maintenance of the Idol Worship of that Shrine.”

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East India House, }  
22 April 1845.

**JAMES C. MELVILL.**

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*Ordered, by The House of Commons, to be Printed, 16 June 1845.*

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**COPY** of a **LETTER** from the Court of Directors of the East India Company to the Governor-General of India in Council.

Legislative Department, 18 December  
(No. 25) 1844.

Our Governor-General of India in Council.

(India Legislative Letter, 12 July (No. 14) 1844).

1. FROM the papers accompanying your letter in this Department of the 12th of July last (No. 14), respecting the Temple of Juggernaut, we are fully confirmed in our previous impression, that the employment of purharees, or pilgrim hunters, is not sanctioned by the Government, and that the authority of the police is never exerted in forcing the labouring classes to drag the car at Juggernaut, or at any other temple, but always in protecting them from any such compulsory service. The imputations cast upon the Government, in these respects, prove to be wholly groundless.

2. It appears that the records of your Government do not enable you to show upon what specific ground it was stated in Lord Auckland’s Minute of the 17th November 1838, that “our promise of the allowance for the support of the temple is distinct and unconditional.” The nature of the pledge under which it was considered incumbent upon us to continue the established allowance seems to have been the assurance held out by Sir Authur Wellesley, in his negotiation with the Mahratta vakeels, and by Lord Wellesley and the Officers acting under his authority in Cuttack, that the temple and the bramins attached to it should be taken under the protection of the British Government. This assurance was in strict conformity with the principles on which the affairs of our empire in India have uniformly been administered. The allowance was fixed at 60,000 rupees per annum, but is stated in the report of the Bengal Government, dated 11 March 1844, to have been reduced to Rs. 36,178. 12. 2, in consequence of the relinquishment of the Sataees Huzaree estate to the temple. We are of opinion that it would be very advisable, according to the suggestion offered in the same report, to commute

the remainder of the allowance in the same manner, by restoring any other lands of equal value which may formerly have belonged to the temple. We desire, therefore, that if you concur in this view, you will take the necessary measures for carrying this arrangement into effect ; and that the lands may be left exclusively to the management of the officers of the temple, and thus that the discontinuance of our interference with its concerns may be made complete.

We are, &c.

(signed)	<i>J. Shepherd.</i>	<i>H. Shank.</i>
	<i>H. Willock.</i>	<i>A. Galloway.</i>
	<i>W. Astell.</i>	<i>A. Robertson.</i>
	<i>F. Warden.</i>	<i>W. B. Bayley.</i>
	<i>J. Loch.</i>	<i>H. Alexander.</i>
	<i>J. Masterman.</i>	<i>H. St. G. Tucker.</i>
	<i>W. Young.</i>	

London, 18 Dec. 1844.

(True copy.)

East India House, }	(signed) <i>T. L. Peacock,</i>
22 April 1845. }	Examiner of India Correspondence.

EAST INDIA.

COPY of so much of a DESPATCH of the Court of Directors of 18th December 1844, as relates to the discountenancing the connexion of the Company's Servants with attendance of Devotees upon the Ceremonies of the Temple of Juggernaut.

(Mr. Evans.)

Ordered, by The House of Commons, to be Printed,  
16 June 1845.

## EAST INDIA.

RETURN to an ORDER of the Honourable The House of Commons,  
dated 5 August 1845;—for,

COPIES “of any CORRESPONDENCE between the COURT OF DIRECTORS and the INDIA BOARD on the one hand, and the Supreme Government of *India* on the other hand, and of any Correspondence between the Supreme Government and the Governments of *Madras* and *Bombay*, on the subject of the separation of the Christian Authorities in *India* from the management of Lands and Revenues connected with Mahomedan and Hindoo Worship; including specially, Copies or Extracts of the Proceedings of the Supreme Government of *India*, and of the Minutes of the Council, on the discontinuance of Pecuniary Payments to the support of the Idol Temple of Juggernaut; and on the restoration of Lands of equal value, which may formerly have belonged to the said Temple since the date of the Papers presented 26 February 1841, and 18 May 1841, but including that ordered to be printed 16 June 1845.”

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East India House, }  
8 August 1845. }

JAMES C. MELVILL.

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(*Sir Robert Harry Inglis.*)

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Ordered, by The House of Commons, to be Printed,  
9 August 1845.

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[*Price 1s. 2d.*]

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## PART I.

### Superintendence of Native Religious Institutions.

#### MISCELLANEOUS.

— No. 1. —

(No. 17 of 1841.)

Legislative Department, 25 Aug. 1841.

OUR GOVERNOR-GENERAL of *India* in COUNCIL.

1. WITH reference to our despatches in the revenue department, dated 2d June (No. 7) 1840, and 3d March (No. 2) of 1841, we have to draw your attention to a memorandum transmitted to us by the government of Fort St. George, in their secretary's letter, dated 20th April 1841, from which it appears that the Board of Revenue at that presidency "have been called upon to report in what districts there are pagodas, or other places of native worship, the management of the affairs and funds of which may be entrusted to persons professing the faith to which the institutions belong, in the same manner as the affairs and funds of the Rumisseram Davastanum were made over in 1832 to the Pundarum, subject to the supervision and control of the zemindars, but without the necessity of submitting any accounts to the collector or other officer of government."

Superintendence  
of Native Reli-  
gious Institutions.

2. It is by Regulation VII. of 1817, that the Board of Revenue at Fort St. George is vested with "the general superintendence of all endowments in land or money granted for the support of mosques, Hindoo temples, or colleges, &c.;" and as the provisions of that Regulation are the same as those contained in the Bengal Regulation XIX. of 1810, we are of opinion that a similar inquiry ought to be instituted, and reports made by the Boards of Revenue in the Presidencies of Bengal and Agra, with the view of relieving the officers of Government from the management of the lands and control of the funds and affairs of all religious endowments whatsoever.

3. We are also desirous that the Regulations above-mentioned may be modified, and that the rules which require any of our European officers to interfere in the management of the funds and affairs of any mosque, pagoda, or temple, may be rescinded, and we request that you will take into consideration the best means of accomplishing this object.

4. In our despatch of the 2d June 1840, we adverted to your resolution to retain the lands belonging to the temple of Juggernaut under the management of the revenue officers, which you had considered to be expedient, in order that protection and justice might be secured to the ryots.

5. In all cases, however, where the revenue has been or may be fixed for a term of years, as has been done in Cuttack, we think that the collection of the revenue so fixed, belonging to temples or other endowed religious institutions, may be safely transferred to agents, to be appointed by the parties in whom the management of the affairs and funds of such institutions may be vested, subject only to such penalties against exactions, and other abuses of their trust, as the native servants similarly employed on the part of the Government would be liable to.

6. The foregoing observation is applicable to entire villages, or distinct portions of villages, which may have been assigned to temples or other religious institutions in all parts of our territories; provided, however, that the revenue demandable from such villages or portions of villages, has been clearly defined, and a pottah or lease issued to each ryot, specifying the extent of land, the amount of the

## CORRESPONDENCE RELATIVE TO

revenue, and the periods at which it becomes due; but in all villages in which temples or other religious institutions derive only a limited portion of the revenue, or Government share of the produce of the land, in the form of per-centages or of fees, the collection of such per-centages or fees must continue to be made by the officers who collect the revenue from which they are derived, as any attempt to separate the two items of demand, and to leave their collection in the hands of distinct agents would, we fear, expose the ryots to serious risk of abuse.

7. It is not our intention that the revenues of mosque and pagoda lands should be exempted from any charges for irrigation and for the general management of the districts wherein they are situated, to which they may justly be liable; and we desire that provision may be made for defraying such charges before the revenues are applied to other purposes.

8. You will perceive that in the directions now conveyed to you, it is our object to give complete effect to the principles recognized in the despatches to which we have referred, and we rely on your promoting that object to the utmost extent which may be practicable.

We are, &c.  
(signed) *G. Lyall.*  
*J. L. Lushington.*

London, 25 August 1841.

## — No. 2. —

(No. 22 of 1841.)

Legislative Department, 17 Nov. 1841.

To the Honourable the COURT OF DIRECTORS of the EAST INDIA COMPANY.

Honourable Sirs,

*Leg. Cons. 1 Nov.  
1841, No. 1.  
Appendix, No. 1.*

WE have the honour to state, in reply to your despatch in this department, dated the 25th August last, No. 17, that we have requested the opinion of the Governments of the several Presidencies as to the best mode of carrying into effect the intentions of your Honourable Court, especially as regards the orders conveyed in paragraphs 4, 5, 6, and 7 of the despatch, upon the practicability and probable effects of which we have directed that the sentiments of the authorities at the Presidencies and in the Mofussil, qualified by experience, and by local circumstances, to offer advice, should be taken.

We have, &c.  
(signed) *Auckland.* *H. T. Prinsep.*  
*W. W. Bird.* *A. Amos.*  
*W. Casement.*

Fort William, 17 Nov. 1841.

## — No. 3. —

GOVERNMENT OF INDIA.

(No. 14 of 1841.)

Revenue Department, 10 May 1841.

To the Honourable the COURT OF DIRECTORS of the EAST INDIA COMPANY.

Honourable Sirs,

*Rev. Cons. 3 May  
1841, Nos. 1 & 2.  
Appendix, No. 2.*

WE have the honour to acknowledge the receipt of your despatch in this department, dated 3d March, No. 2 of 1841, and to forward herewith copy of a communication which has been made by your orders to the Government of Madras on this date.

*Rev. Cons. 5 April  
1841, Nos. 10 to 13.*

We take this opportunity of transmitting the proceedings which have been adopted by the Government of Bombay, together with our orders for withdrawing from the management of the affairs of native religious establishments at that Presidency. Certain revenues, amounting to 9,972 rs. 4 a. 9 p., derived from idolatrous worship, have been ordered to be forthwith relinquished.

We have, &c.  
(signed) *Auckland.* *W. Casement.*  
*T. Nicolls.* *H. T. Prinsep.*  
*W. W. Bird.*

Fort William, 10 May 1841.

## — No. 4. —

(No. 16 of 1841.)

Revenue Department, 5 July 1841.

To the Honourable the COURT OF DIRECTORS of the EAST INDIA COMPANY.

Honourable Sirs,

IN continuation of our despatch, No. 14 of 1841, dated 10th May, we have the honour to lay before you the accompanying communication from the Government of Madras, containing the instructions which have been issued by that Government for giving effect, without delay, to the orders of your Honourable Court for the withdrawal of all interference with the religious institutions of the natives.

Appendix, No. 3.

We have not thought it necessary to pass any orders on a proposition made by the Hon. Mr. Lushington, in a Minute transmitted herewith, for restoring to the religious institutions of the country the funds that have, in past years, been derived by the state from the interference now about to be withdrawn.

We have, &amp;c.

(signed)

*Auckland.**W. Casement.**J. Nicolls.**H. T. Prinsep.**W. W. Bird.*

Fort William, 5 July 1841.

## — No. 5. —

(No. 22 of 1841.)

EXTRACT REVENUE LETTER from *India*, dated 1. November 1841.

29. WITH reference to the correspondence with the Government of Bombay, reported in our despatch, No. 14 (10th May) of 1841, we forward the accompanying letter from that Government, reporting that no pilgrim tax exists in Dharwar.

Rev. Cons. 26 Apr.  
1841, No. 17.  
Appendix, No. 4.

Enclosure 1, in No. 5.

(No. 22.)

EXTRACT REVENUE LETTER from *India*, dated 1 November 1841.

30. IN connexion with the same correspondence, we have the honour to submit the papers noted in the margin, from which your Honourable Court will perceive that we have approved of the course proposed to be adopted by the Right hon. the Governor in Council of Bombay, for the future management of the Inam villages of Dakoor and Kunjiree, within the Kaira collectorate attached to the temple of Runchorjee.

Rev. Cons. 14 June  
1841, No. 7 to 9.  
Appendix, No. 5.

Enclosure 2, in No. 5.

(No. 22.)

EXTRACT REVENUE LETTER from *India*, dated 1 November 1841.

31. MOENARUZ Bhut Bin Gunnessh Bhut Baide claimed an allowance of 30 rupees 2 as., which had been granted by the Peishwa's mamletdar in 1816, for the support of the temple of Sheikamchunder, in the Warrakusba of the Poona collectorate, and continued until 1835, when it was transferred by the grantee to the father of the petitioner. The allowance was conferred by an incompetent authority, and had never been recognized by the Peishwa's government, which was overthrown in the subsequent year. Still, as the allowance was appropriated to the service of the temple, the Government of Bombay recommended its continuance in perpetuity as a Dewasthan. We could not, however, comply with the recommendation.

Rev. Pro. 31 May  
1841, No. 22 to 24.  
Appendix, No. 6.



## — No. 6. —

(No. 7, 1842.)

Legislative Department, 4 May 1842.

Our GOVERNOR-GENERAL of *India* in COUNCIL.

India Revenue Letter	-	10 May (No. 14) 1841
"	"	5 July (No. 16) "
P. 29. 31	"	1 Nov. (No. 22) "
"	Legislative Letter	17 Nov. (No. 22) "
P. 140. India Political Letter		22 Dec. (No. 71) "

Superintendence of  
Native Religious  
Institutions.

We have received your letters noted above, relative to the discontinuance of interference on the part of the officers of Government with the religious institutions of the natives, and we entirely approve the measures therein reported.

(signed) We are, &amp;c.

London, 4 May 1842.

*J. L. Lushington,*  
*J. Cotton,*  
&c. &c. &c.

## — No. 7. —

(No. 9.)

EXTRACT REVENUE LETTER from *India*, dated 10 June 1842.

Rev. Cons. 6 Dec.  
1841, No. 25 to 27.  
Appendix, No. 7.

Para. 39. THE dispensary at Moradabad was supported from the proceeds (averaging Rs. 2,851. 10. 4. per annum) of certain shrines in that zillah. On the question being raised by the Sudder Board at Allahabad, whether the collections should continue to be made for this object, orders were given to relinquish them altogether. The arrangements to be made for keeping up the dispensary, and for defraying the pension of an incumbent native doctor, were referred to the General Department for consideration.

## — No. 8. —

(No. 13.)

EXTRACT REVENUE LETTER from *India*, dated 26 August 1842.

Rev. Cons. 25 Mar.  
1839, No. 21.  
14 March 1842,  
No. 12.  
Appendix, No. 8.

Para. 29. THE accompanying statement, which was called for in 1839, shows the amount of funds appropriated from the public resources for purposes connected with the Hindoo and Mahomedan religions in the North-west Provinces. No orders were required on this document with reference to the general arrangements lately sanctioned.

## —No. 9.—

(No. 6.)

Legislative Department, 19 February 1845.

Our GOVERNOR-GENERAL of *India* in COUNCIL.

Paras. 70 and 74, Agra Rev. Narr.	11 April	(No. 2) 1842.
" 39 " India Rev. Letter	10 June	(No. 9) "
" 29 " " "	26 August	(No. 13) "
" 8 to 11 Bengal " "	13 September	(No. 16) "
" 7 to 9 Agra Rev. Narr.	25 October	(No. 6) 1843.

(Para. 70, Agra Rev. Narrative, 1 April  
(No. 2) 1842.)

Transfer of two pergunnahs hitherto appropriated to the repair of the pilgrim road from Hurdwar to Budrinath, to the managers of the shrines.

(Para. 39, India Revenue Letter, 10 June  
(No. 9) 1842, and 74 of Agra Narrative, 11 April (No. 2) 1842.)

Relinquishment of the collection from certain shrines in the district of Moradabad appropriated to the support of the dispensary.

(Para. 29, India Rev. Letter, 26 August  
(No. 13) 1842.)

Statement of public funds appropriated to the Hindoo and Mahomedan religions.

(Para. 8 to 11. Bengal Rev. Letter, 11  
September (No. 16) 1842.)

Superintendence of native religious institutions in Assam.

(Para. 7 and 9. Agra Rev. Narrative, 25  
October (No. 6) 1843.)

Report of instances of the continued superintendence of native religious institutions.

We approve of the proceedings reported in these letters with a view to the discontinuance of any interference on the part of the Government or its officers with the management of the religious institutions of the natives.

We are, &c.

(signed) *J. Shepherd,*  
*H. Willock, &c. &c.*

London, 19 February 1845.

## —No. 10.—

(No. 19.)

EXTRACT LEGISLATIVE LETTER from *India*, dated 4 November 1843.

Para. 41. WE have received returns from the several presidencies consequent upon our call made on the receipt of your Honourable Court's despatch above cited, and we are now awaiting further information from Bengal, and the draft of an Act which we have directed to be prepared for modifying the provisions of Reg. XIX. 1810, of the Bengal code.

25 August 1841.

Reported in Desp-

No. 22 of 1841,

dated 17 Nov.

## — No. 11.—

Burdwan, Foreign Department (Secret);  
25 February 1844.

(No 19 of 1844.)

To the Honourable the SECRET COMMITTEE of the Honourable the  
COURT OF DIRECTORS.

Honourable Sirs,

Appendix, No. 9. I HEREWITH forward, for such orders as your Honourable Committee deem proper, the accompanying correspondence with the government of Scinde, respecting a claim preferred by some Syuds and other residents at Tatta to a continuance of certain grants made by former rulers of Scinde.

I have, &c.

(signed) *Ellenborough.*

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## — No. 12. —

(No. 11.)

EXTRACT REVENUE LETTER from *India*, dated 4 July 1844.

Rev. Cons. 11 Nov.  
1843, No. 1.  
9 March 1844,  
No. 9 to 22.  
Appendix, No. 10.

Para. 11. THESE papers, which we called for from the Madras Government, report the measures adopted for the transfer of the native religious institutions in the district of South Arcot into the hands of native trustees. A dispute had arisen in regard to the trustees appointed for the Trincomalee pagoda, but this appears to have been afterwards settled by a selection made more in accordance with the wishes of the people.

12. Instances have occurred in this temple of persons cutting their tongues from superstitious motives, and the Madras Government directed that in this and in all pagodas where mutilation of any kind was practised, the brahmins and others connected with the institution should be warned that, in the event of the recurrence of such acts, Government would feel called upon to withhold all payments made in endowment.

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## APPENDIX TO PART I.

## Appendix, No. 1.

ENCLOSURE to LEGISLATIVE LETTER, 17 November (No. 22) 1841.

EXTRACT LEGISLATIVE CONSULTATIONS, 1 November 1841.

(No. 1.)

From *T. H. Maddock*, Esq., Secretary to the Government of India, to Secretary to the Government of Madras (No. 182), Secretary to the Government of Bombay (No. 183), Secretary to the Government of Bengal (No. 147), and Secretary to the Government North-Western Provinces (184); dated 1 November 1841.

Sir,

I AM desired by the Right honourable the Governor-general of India in Council to request that you will lay before the Right honourable the Governor in Council the accompanying copy of a despatch from the Honourable the Court of Directors, dated the 25th August 1841 (No. 17).

2. The Governor-general in Council is desirous of receiving the opinions of his as to the best mode of carrying into effect the intentions of the Honourable Court, especially as regards the orders conveyed in paras. 4, 5, 6, and 7, of the despatch upon the practicability and probable effects of which the sentiments of the authorities at the presidency and in the Mofussil, qualified by experience and by the local circumstances to offer advice, may be particularly invited.

I have, &amp;c.

(signed) *T. H. Maddock*,

Fort William, 1 November 1841.

Secretary to the Government of India.

Leg. Dept.

To Bombay; Hon.  
the Governor.  
To Bengal; Right  
hon. the Governor.  
To North-Western  
Provinces; Hon.  
the Lt.-Governor.

## Appendix, No. 2.

ENCLOSURES to INDIA REVENUE LETTER, 10 May (14) 1841.

EXTRACT INDIA REVENUE CONSULTATION (No. 58), 3 May 1841.

(No. 1.)

From *T. H. Maddock*, Esq., Secretary to the Government of India, to the Chief Secretary to the Government of Fort St. George; dated 3 May 1841.

Sir,

I AM desired by the Right honourable the Governor-general of India in Council to transmit for the purpose of being laid before the Right honourable the Governor-general in Council, copy of a despatch from the Honourable the Court of Directors, dated the 23d March 1841, No. 2.

2. The Governor in Council will perceive that the Honourable Court, approving of all other parts of the proceedings of the Supreme Government on the subject of withdrawing from interference with the concerns of native religious establishments, object to the permission given in Mr. Secretary Halliday's letter, No. 121 of 10th August 1840, to introduce the alterations which have been decided upon in such time and place as may seem best to the Government of Fort St. George. The opinion of the Honourable Court is, that the measures which have been fully carried into execution in every other part of British India should now, without further delay, be completed under the Madras Government.

3. Accordingly I am directed to request that you will move the Right honourable the Governor-general in Council to take into his immediate consideration the best mode of fulfilling the instructions of the Honourable Court of Directors in such a manner as that a report of the final arrangements adopted for this purpose, may, if possible, reach this Government from that of Fort St. George in time to be transmitted to England by the mail of January 1842, and to request from his Lordship in Council an early announcement of the measures which he may propose to adopt for the purpose of complying with the wishes of the Court.

4. For the information of his Lordship in Council, I am directed to inclose copy of a correspondence which has lately passed with the Government of Bombay on the measures in progress at that presidency.

I have, &amp;c.

(signed) *T. H. Maddock*,Fort William, 3<sup>rd</sup> May 1841.

Secretary to the Government of India.

Rev. Dept.

Letter from Secretary Government of Bombay, dated 27 February 1841.  
Reply, dated 5 Apr. 1841.

(No. 59.)

(No. 2.)

From *T. H. Maddock, Esq.*, Secretary-to the Government of India, to the Officiating Secretary to the Government of Bombay; dated 3 May 1841.

Rev. Dept.

Sir,

I AM directed by the Right honourable the Governor-general in Council to forward to you, for the information of the Honourable the Governor in Council, the accompanying copy of a despatch from the Honourable the Court of Directors, dated the 3d March 1841, No. 2.

I have, &c.  
(signed) *T. H. Maddock*,  
Secretary to the Government of India.

Fort William, 3 May 1841.

## EXTRACT INDIA REVENUE CONSULTATIONS, 5 April 1841.

(No. 616 of 1841.)

(No. 10.)

From *L. R. Reid, Esq.*, Chief Secretary to the Government of Bombay, to *T. H. Maddock, Esq.*, Secretary to the Government of India; dated 27 February 1841.

Territ. Dep. Rev.

Sir,

I AM directed to acknowledge the receipt of Mr. Secretary Halliday's letter, No. 122, dated the 10th August 1840, and to transmit to you for the purpose of being laid before the Right honourable the Governor-general of India in Council, the accompanying resolution, this day passed by the Honourable the Governor in Council, detailing the proceedings of this Government in withdrawing from all interference in the management of the native religious establishments of the country.

Bombay Castle,  
27 February 1841.

I have, &c.  
(signed) *L. R. Reid*, Chief Secretary.

(No. 11.)

RESOLUTION, Territorial Department, Revenue, Bombay Castle, 27 February 1841.

Enclosure.

1. READ again the letter, No. 122, from Mr. Halliday, junior secretary to the Government of India, dated 10 August 1840, with its enclosure, being copy of a letter (No. 7) from the Honourable the Court of Directors, dated 2 June 1840, regarding the withdrawal of Government and its officers from all interference in the management or control of the native religious institutions of the country.

2. The Governor in Council observes, that the question of withdrawing all interference on the part of Government or its officers in the management of the native religious establishments, under this Presidency, was first mooted in 1833. In 1838 the information required by the Government of India was furnished, and on that occasion it was stated, *vide para. 18* of Mr. Secretary Reid's letter of 30th January 1839, "The Right honourable the Governor in Council will not adopt any measures connected with the religious ceremonies of the natives of this country, except under the orders of the Government of India." To this communication no direct reply has ever been received. It was subsequently referred to in the letter to the Government of India, 4th January 1839, in reply to which it was stated that the Government of India "would not at present approve of the adoption of any general measure for the immediate abandonment of all interference with the management of temples, yet it would wish the Government, upon sound principles, and whenever it may be easily and safely accomplished, to withdraw from any particular temple, or place of worship, or pilgrimage, that interference which has been so strongly objected to."

3. On the receipt of those instructions, it was determined by the Government to act upon them as cases should arise, and particularly in the case of the temples at Nassick, which was then under consideration. The Government of India having requested to know what proceedings had been adopted by this government in consequence of its communication of 10th June 1839, the requisite information was supplied on the 3d July 1840, in reply to which the Government of India has transmitted copy of the Honourable Court's orders of 2d June 1840, explaining their views more fully upon this subject.

4. The Governor in Council deems it advisable, in this place, to revert briefly to the past proceedings of this Government on this question, so that his Lordship in Council may have before him a complete view of the subject as regards this presidency, and at the same time to point out what remains to be done for fully carrying out the intentions of the home authorities and the Government of India.

Rutnagaree.

5. In the management of the small temples in this collectorate, little or no interference is exercised by Government; such is not, however, the case in respect to the larger temples, to which Government appoints Karkoons, who are paid from the funds of the institutions. For each temple there is a committee of natives, who superintend its management, but an account of all the disbursements is rendered to the Government officers. The appointment of these Karkoons and the entire control of the funds, without being held accountable to Government,

ment, should, the Governor in Council is of opinion, be vested with the committees of Hindoos. The requisite orders should be issued to the collector, who should be given to understand that Government desires to withdraw all connected with these institutions.

6. No interference is exercised by Government in the management of villages or lands assigned for the support of native religious institutions in this collectorate; but in respect to money payments, Government interferes at two places, viz., Neermul and Ryghur, where the money allowed from the public treasury is disbursed under the immediate orders of the Mamlutdur or head Government officer, in feeding Brahmins, providing cloth for the idols, paying for musicians, and illuminations, &c. The collector having suggested that the control over such expenses should be vested in a committee of respectable Hindoos residing at each place, the Governor in Council resolves that that course be now adopted, and that officer instructed accordingly.

Tannah.

Neermul, 313. 12. 9.  
Ryghur, 369. 15. 9.

7. In this collectorate there is no such interference; but whether or not Government exercises the right to appoint priests to perform Pooja in temples or before idols, as at Nassick and Bulsar, is not apparent from the records. If such right is exercised, the Governor in Council considers that it should be relinquished not only in this, but in the other collectorates; orders to this effect are therefore to be issued to the collectors.

Khandeish.

8. The management of villages granted for the support of temples or mosques is not interfered with by Government, but until lately it exercised a control over such temples as are supported by money payments from the Treasury. The management of the principal temple at Nassick is vested hereditarily in one family, the principal member being the Kurbaree or manager, who rendered to Government an account of his disbursements. He has the right to nominate the Poojaree, but the appointment of Poojarees to the idols up round about Nassick was vested in Government or its officers.

Ahmednuggur, and  
the sub-collectorate  
of Nassick.

9. Upon the receipt of the Government of India's orders of 10th June 1839, the collector of Ahmednuggur was instructed on the 2d August 1839 to propose an arrangement, after consulting with the parties concerned, for the withdrawal of all interference in the temples at Trumbuck, and on the 17th of August he was informed that Government approved of a proposition made by him, that the right of appointing priests to officiate at the minor temple should be vested in a committee of natives of respectability.

10. In the collector's reply, dated 30th November 1840, he proposes that the management of the temple should be entrusted to the present Kurbaree Narayen Row Cassee Joglukur, under a deed of trust, it being provided that an account of the receipt and expenditure should be kept for the inspection of any person interested in the establishment; and the accounts at present rendered to Government being discontinued, the Governor in Council considers this a very judicious arrangement, and directs that it be at once carried into effect.

11. Draft of rules, vesting the management of the temples at Nassick in a committee of native inhabitants, having been prepared, was sanctioned by Government on the 26th May last. By those rules, however, Government is still called upon to interfere in cases of mismanagement on the part of the committee, for the last of the rules declares that, "in the event of its being proved that any impropriety occurs in the management of duties thus intrusted to your (the committee) care you will be called upon to give an account to Government."

12. The Governor in Council observes that under the explanation given in para. 5 of Mr. Secretary Halliday's letter of the 10th August last, of the Honourable Court's intentions on the subject, the liability of Government to be called upon to interfere in cases of malversation, or to appoint members of the committee, should be removed, and this can only be effectually done by the formation of corporate trusts, as proposed by the Government of India. To effect this object, a legislative enactment would seem to be necessary, because the regulations of this Presidency do not provide for the prosecution and punishment of frauds committed by such corporate bodies, nor do they contain any provisions which would enable such bodies to sue and be sued in matters connected with their trusts. Sec. 40, Reg. XIV. of 1827 (which is sometimes made applicable to frauds) requires the ownership of property to be defined, but the ownership of these corporate bodies would be too general to admit of its being fixed on any individual as required by that section. In the seventh part of clause 1, sec. 1, Reg. XIV., there is a general law which provides for the punishment of all acts in breach of morality, but the Governor in Council conceives that the misappropriation of money is an offence of a higher character, and that therefore this law would not be applicable in the case of corporate bodies defrauding their trusts.

13. In carrying out the principle of entirely severing Government and its officers from any interference whatever in matters connected with the native religious institutions, the Governor in Council is of opinion that in whatever way corporate bodies of trusts may be established, it should be provided that vacancies are to be filled up without the intervention of Government, either by a kind of election in certain families, or in such other way as the Government of India may determine upon, and that the Poojarees or officiating priests, or the heads of the castes connected with the institution, should be the parties having authority to prosecute the trustees for any malversation or breach of trust.

14. It was formerly the practice to farm, on account of Government, the privilege of collecting fines and offerings presented to the idol Khundooa at Jeejooree, and the amount for which the farm sold in 1833-34 was rupees 1,088. With the sanction of the Government of India this farm was ordered to be abolished on the 31st December 1834, and in June following the collector submitted a statement showing the amount, rupees 1,001, derived by Government from the same source from various other temples. No decision was then

Poona.

passed pending the receipt of the information called for by the Government of India, and furnished by this Government in 1838. It does not appear that these sources of revenue have yet been relinquished, and the Governor in Council is of opinion that they should now be given up, and that, as suggested by the collector, the allowances to such temples should be reduced in amount, corresponding with the revenue thus relinquished, the offerings being appropriated by the managers of the temples, instead of by Government as heretofore. Instructions to this effect are therefore to be issued to the collector.

15. It appears that the sum of rupees 18,617 is paid annually by Government for the maintenance of the temples at Parbuttee, and the three minor temples at Kootroor and Parbuttee Tank. The whole management of the affairs of the temples is vested in a Karkoon, who is under the orders of the collector, and who renders to Government monthly accounts of the expenditure. On the 4th May, and again on the 15th October 1839, the collector of Poona was requested to report whether the entire management of those temples could not be entrusted to some members of the Hindoo community. He was requested on the 18th April 1840, to expedite his report, and in his reply of 1st May, Mr. Stewart pointed out that he had been unable to make any satisfactory arrangement, and promised to make a further report, which has not yet been received.

16. From the collector of Poona's letter of the 1st January 1838, it would appear that the village of Nowlee is the only one which has been assigned for the maintenance of a religious institution, and in the management of which Government interferes. It was assigned for the support of the shrine of Peersah Munsar, and the revenues are collected by the Mamlutdar, and expended by him in conjunction with the Peerzadas at the time of the Ooroos.

17. The Government officers have, however, in some way or other a direct control over the money affairs of many of the temples in this collectorate. The following instances are given in Mr. Mill's letter of 1st January 1838 :—

1st, At the temple of Bheema Shunker a sum of 865 rs. 8 a. is allowed for the Anoosthan (certain propitiatory ceremonies), which is expended under the control of Morodixt Munchur, who was appointed manager by the Paishwa, and confirmed in the office by Government.

2d, At the temples of Kundaba at Joojooree, of Byraba, at Sussoor, of Moresheewur at Meergaon, of Gunputtee at Hewree, of Tenaghee Deo at Koorkoomb, of Deovergee at Veerghur, and of Gunputtee at Suddur Yok, where the Chao Gurrh (or band of the idols) are paid their monthly salaries by the Government officers.

3d, At the temple of Mahadeo Pushaw an account of the allowances (4,556 rs. 8 a.) granted to this temple is rendered to Government by the managers.

4th, When the Deo of Chinchaw stops at Poona on his annual journey to the temple at Moorgaon, the collector's Dufterdar presents him with a pair of shawls and rupees equivalent to five gold mohurs, the total being 166 rs. 8 a.

5th, At the temple of Beegwunt in Barsee Talooka, the Dewusthan of 1,356 rs. is expended under the management of the Government officers.

6th, In the city of Poona the Churguree, of Shree Ramchunder receive the stipulated allowance from the Government treasury. The allowance of 450 rs. per annum on account of Ram Nawmee, is expended for the use of the idol by the Government officer.

7th, At the temple of Gunputtee Poona the allowance for an annual festival, 280 rs., is expended under the control of Government officers.

8th, At the temple of Oankarshwur Mahado (Poona) the allowance, 943 rs., is under the control of Sewrambut Chetrow, who was appointed manager by the Peishwa, and confirmed in the office by the British Government.

18. The Governor in Council has resolved that the collector of Poona be at once instructed to arrange immediately for the transfer of the management of the temples of Purbuttee to a committee of respectable natives, and for the withdrawal of the interference of Government officers in the instances mentioned in the preceding paragraphs. The sole management and control of the village of Nowlee should be made over to the Peerzadas of the shrine of Shah Munsur, the interference of Government being entirely withdrawn, the police charges of the village being defrayed from its revenues.

Belgaum.

19. In this collectorate Government used to derive a considerable revenue from collections and freewill offerings made at the Jattrra or annual fair, held at the temple of Jellama, the concerns of which appear to have been managed by public officers. In 1836 the revenue derived from the temple was relinquished by Government, on which occasion it was observed in the instructions issued to the first assistant collector in charge on the 15th August, "It seems unnecessary that Government should continue to implicate themselves in the concern, as would be the case were the plan which you proposed of keeping up an establishment merely to arrange about the expenses and management of the temple, and collect the dues of Huckdars, adopted;" and that officer was directed "to make over the whole concerns of the temple to a certain number of the most respectable Hindoos," it being likewise declared to the native community "that Government having relinquished their share of the profits of the temple, cannot consent to be burdened with any duties pertaining to it."

20. The Governor in Council is not aware whether Government exercises any interference in the nomination of members of the committee which has the management of the temple of Yellama. The collector should be called up to report, and if so, to arrange for the withdrawal of such interference.

21. In the affairs of the temple at Wunshunkeree, near Badanree, the officers of Govern-  
men

ment interfere according to the last return furnished by the collector; the income for Fuslee 1245, A. D. 1835-6, amounted to 1,504 rs. 3 a. 3 p. as per margin. It appears that the disposal of the two first items is left exclusively to the Poojarees, and the management of the rest is vested in an agent appointed by the Mamlutdar of Badamie, in whose kutcherry the ornaments belonging to the idol are deposited. The acting first assistant collector in charge suggested that the funds allotted for the maintenance of the temple should be made over to a committee of the principal Zemindars, and this suggestion should be now carried into effect, and the management of an agent appointed an officer Government withdrawn.

Inam land - - - -	Rs. 106	8	-
Allowance paid by Government to furnish daily offerings to the idol -	162	9	-
Allowance paid by Government for expenses at the annual Jattrra -	707	-	3
Offerings made at the temple during the Jattrra - - - -	441	-	-
Levied from zemindars to defray the expense of parading the Ruth or sacred car - - - -	84	-	-
Petty collections made at other times - - - -	3	2	-
	Rs. 1,504	3	3

22. No interference is exercised by Government, or its officers, in the management of native religious establishments in this collectorate.

Dharwar.

23. In this collectorate the villages of Urney and Rajpoor were alienated by the former Government for the support of the temple of Mahadeo Nageshwur, and for the maintenance of pilgrims (and mendicants of any persuasion) *en route* to Dwarka. The revenues of these villages, which are managed the same as Government villages, are collected by a Tullatee, who is appointed by the collector, and are appropriated to the objects of the grant, under the orders of the Mamlutdar. This system should, the Governor in Council is of opinion, be so far altered that the proceeds of the villages should be paid to a committee, and expended by it. The management of the villages should remain as at present, and the Mamlutdar should at once be authorised through the collector to make over to the committee all the revenue as it may be received.

Ahmedabad.

Urnij, Rs. 1,800.  
Rajpoor 1,700.

24. No interference in the management of villages or lands granted to native religious institutions exists in the Surat collectorate. The appointment of a Poojaree to the temple of Luckshmee Narrain at Bulsar used formerly to be made by Government; but on the 6th April last the privilege of making such appointment was vested by order of Government in seven of the respectable inhabitants of that place.

Surat.

25. The following is the only case in the Kaira collectorate in which the interference of Government is exercised. The villages of Dakoree and Kunjree were granted in Inam by the Paishwa and Guicowar to Gopal Jugernath Tambeykur, for the support of the temple of Shree Dakorejee, erected by him in A. D. 1770-71. In the former village Tambeykur collected the revenues of the villages, and managed the affairs of the temple, but the police establishment at Dakee was kept up, and the expense defrayed by the former Government. Tambeykur having retired to Satteera, appointed his Gomasta as agent for the management of the affairs of the temple, but this person having misconducted himself, the Guicowar government removed him, and appointed an agent of its own to superintend the police, to collect the revenues of the two Inam villages, and to manage the affairs of the temple.

Kaira.

26. This arrangement was found in force when the country came into the possession of the British Government, and was continued unchanged with this exception, that the police establishment, the expense of which was defrayed from the revenues of the villages, was superintended by an agent, appointed by Tumbeykur, the revenues of the villages being paid into the public treasury and the disbursements on account of the temple being made by the order of the collector, on the requisition of the Tumbeykur's agent. In reference to the question of Government withdrawing all interference in the resources and affairs of the temple, the collector observed, that unless Tumbeykur came from Suttra, and resided at Dakoor, the affairs of the temple would be mismanaged, to guard against which Mr. Kirkland suggested that a committee of natives should be appointed by Government to examine the agent's accounts, and to exercise a general surveillance over him.

27. At the same time Mr. Kirkland stated, that if this arrangement was adopted, the police management should be conducted by Government. He goes on to observe, "There is a population at Dhukore of 1,700 houses and 5,748 souls. It is a place where people from all parts of the country resort to on pilgrimage to the grand temple. On grand days the police from the neighbourhood are sent to aid in protecting them, and to secure the peace, which aid will of course be continued; but a fair of a minor sort is held every full moon, where also a large concourse of pilgrims assemble; it will therefore be necessary to keep up a regular police establishment for the protection of the place (as per margin). According to this calculation, the annual expenses of the police would be rupees 1,122. The police expenses are at present defrayed from the revenues of the temple, and when all interference in the affairs of the idol are given up, it will necessarily devolve on the Government. No decision was passed upon this letter, the general question being at the time under the consideration of the Government of India.

20 peons at 4	
rs. each	80
1 jemadar -	10
1 trumpeter -	3/8
	Rs. 93/8

28. The Governor in Council is of opinion, that the management of these villages should be transferred to Tumbeykur, and that the expense of maintaining the police establishment should be defrayed out of their revenues. If in carrying this arrangement into effect, the collector has doubts on any point, he should refer for the instructions of Government.



## CORRESPONDENCE RELATIVE TO

29. From a statement preferred by the acting accountant-general in 1837, it appears that				he total revenue derived by this Government from idol worship,			
Dharwar - - -	Rs. 8,227	8	-	Pilgrim tax.	was rupees 9,972. 4. 9. as per margin; some portion of this has		
Poonah - - -	" 1,535	4	2	Idol offerings.	been given up in the Poona collectorate, but it still remains to		
Ahmednuggur -	" 105	5	9	Ditto.	be determined whether or not the balance is likewise to be relin-		
Surat and Broach	" 4	2	10	Ditto.	quished. The statement was sent to the Government of India		
Rs. 9,972				4	on the 30th January 1838, to which no direct answer has ever		
				9	been received. Its orders on this subject should be again solicited.		

30. There is nothing on the record to show the nature of the pilgrim tax, and the collector of Dharwar should therefore be called upon for explanation.

31. Ordered, that a copy of the resolution be forwarded to the Government of India in reference to Mr. Secretary Halliday's letter of the 10th August 1840.

(True copy.)

(signed) L. R. Reid, Chief Secretary.

(No. 12.)

(No. 41.)

From T. H. Maddock, Esq., Secretary to the Government of India, to L. R. Reid, Esq., Chief Secretary to the Government of Bombay; dated Fort William, 5 April 1841.

Sir,

Rev. Dept.

I AM directed to acknowledge the receipt of your letter, No. 616, dated the 27th February last, detailing the proceedings of the Honourable the Governor in Council in withdrawing from all interference in the management of the native religious establishments of the country.

2. The Right honourable the Governor-general of India in Council approves the orders of the Bombay Government as indicated in the resolution, and requests that he may be favoured with a report on those points in which further information has been called for, particularly in regard to the management of the villages in Kaira noticed in paras. 25 to 28 of the resolution.

3. His Lordship in Council is of opinion, that in order to obviate all necessity for any interference in future on the part of Government, it will be advisable to make a specific provision for filling up vacancies that may occur in the committees of natives, to whose management the concerns of the temples are to be made over. Where circumstances admit of the arrangement, the power of electing to vacancies may be given to the community interested in the endowment; but where no such communities exist, the election may be left with the committees themselves. Upon this point his Lordship will be happy to receive a report of the sentiment of the local Government.

4. The large powers possessed by the Company's courts as courts of equity and good conscience, would seem to render unnecessary the passing of a law of the nature alluded to in para. 12 of the resolution. The Governor-general in Council is anxious to avoid as far as possible recourse to legislative measures on any point of the difficult question now happily in course of adjustment.

5. His Lordship in Council is pleased to authorize the relin-				quishment of the revenue, as per margin, referred to in para. 29			
Dharwar - - -	Rs. 8,327	8	-	Pilgrim tax.	of the resolution.		
Poonah - - -	" 1,535	4	2	Idol offerings.			
Ahmednuggur -	" 105	5	9	Ditto.			
Surat and Broach	" 4	2	10	Ditto.			
Rs. 9,972				4			
				9			

I have, &c.

(signed) T. H. Maddock,  
Secretary to Government of India.

### Appendix, No. 3.

#### ENCLOSURES to INDIA REVENUE LETTER, 5 July (No. 16) 1841.

EXTRACT INDIA REVENUE CONSULTATIONS, 5 July 1841; dated Fort St. George, 12 June 1841.

From H. Chamier, Esq., Chief Secretary to the Government of Fort St. George, to T. H. Maddock, Esq., Secretary to the Government of India; dated 12 June 1841.

Sir,

Rev. Dept.

Para. 1. I AM directed by the Right honourable the Governor in Council to acknowledge the receipt of your letter of the 3d ultimo, No. 58, and in reply, to transmit a copy of one which has been addressed to the Board of Revenue under this date, containing the instructions which have been issued for giving effect to the orders of the Honourable the Court of Directors, for the withdrawal of all interference with the religious institutions of the natives.

2. I am also directed to take the opportunity of forwarding a copy of a Minute recorded by the Honourable Mr. Lushington, and to request the instructions of the Government of India on the question therein contained.

I have, &c.

(signed) A. Chamier, Chief Secretary.

(No. 793.—Revenue Department.)

From *H. Chamier, Esq.*, Chief Secretary to Government of Fort St. George, to the President and Members of the Board of Revenue; dated Fort St. George, 12 June 1841.

Gentlemen,

Para. 1. THE Honourable the Court of Directors and the Government of India having ordered the immediate withdrawal from "all interference with native temples and places of religious resort," I am directed by the Right honourable the Governor in Council, with reference to my letter of the 21st April last, to request that you will, without delay, suggest the measures requisite for carrying those orders into effect.

2. It is the intention of Government that the interference of all public officers, either with the internal arrangements of the religious institutions in question, or with the administration of their revenues and funds of every description, shall be altogether withdrawn, and be "vested in those individuals who, professing the same faith, may be thought best qualified to conduct that administration with fidelity and regularity, such individuals, together with their subordinate officers, being held responsible to the courts of justice for any breach of the duties and trusts assumed by them;" and this withdrawal his Lordship in Council desires may not be "partial and uncertain, but final and complete."

3. It is not, however, the desire of Government that the revenue officers should relinquish the management of lands attached to religious institutions which have been assumed for the purpose of securing the public revenue, or in order that protection and justice may be afforded to the ryots. The Government of India have remarked, that the continuation of the management of such lands by the revenue officers "is due as a measure of justice to the agriculturists whose contracts and engagements have been made in anticipation of the continued management of the land by Government," and in such cases his Lordship in Council thinks it will be sufficient that the net proceeds of the land should be paid without reservation to the native administrators of the institutions to which they belong.

4. In carrying the instructions which may be issued into effect, it is essential that you give your most careful attention to local circumstances and to native feelings and prejudices, and that you make it generally understood that the object of the Honourable Court of Directors is to leave to the people the management of their own religious institutions without the interference on the part of the revenue officers of Government, and that there is no intention of withholding any authorized and customary payments and allowances.

5. His Lordship in Council also requests you will report the sums of money now in deposit in the several public treasuries belonging to such religious institutions, together with your opinion as to the expediency of making over the amount to the administrators of each institution at once, or whether it would be advisable to keep it still in deposit, to be drawn from time to time as may be required for the purposes of those institutions respectively.

6. His Lordship in Council desires that your report on the subject of the present communication may be submitted without any delay; and with the view of saving time, he desires that the arrangements for each district may be laid before Government as soon as they may be prepared.

I have, &c.

(signed) *H. Chamier*, Chief Secretary.

MINUTE by the Honourable *C. M. Lushington*; dated 11 June 1841.

REFERRING to the orders of the Honourable the Court of Directors, and Mr. Bird's Minute thereon, I request to be informed, whether it is intended to restore to the religious institutions of the country the funds and lands that have been carried to the account of Government from the time the Carnatic was ceded to them, or whether those funds which have been received in excess of their expenses are to remain, uninquired into, in the hands of the Government.

2. This appears to me to be the primary question. There can be no doubt that had the Hindoos been consulted at the time the country was ceded, whether the Government should interfere in the management of their pagodas or not, their vote for non-interference would have been unanimous. Common honesty, therefore, appears to me to dictate, that if we now withdraw all interference (and the orders are imperative on the subject), the funds that we have derived from our interference should be repaid.

I have, &c.

(signed) *C. M. Lushington*.

(True copies.)

(signed) *H. Chamier*, Chief Secretary.

(No. 88.)

From *F. J. Halliday, Esq.*, Junior Secretary to Government, India, to *H. Chamier, Esq.*, Chief Secretary to Government, Fort St. George; dated Fort William, 5 July 1841.

Sir,

I AM directed to acknowledge the receipt of your letter, No. 796, dated the 12th ultimo, with its enclosures, and in reply, to convey the approval of the Governor-general of India in Council to the instructions issued by the Right honourable the Governor in Council for 664.

B 4

giving

Enclosure.

Rev. Dept.

giving effect to the orders of the Honourable the Court of Directors for the withdrawal of all interference with the religious institutions of the natives ; and to state, at the same time, that it does not appear necessary to his Lordship in Council to pass any orders on the proposition made by Mr. Lushington.

I have, &c.  
(signed) *F. J. Halliday*,  
Junior Secretary to Government, India.

#### Appendix, No. 4.

ENCLOSURES to Para. 29, INDIA REVENUE LETTER, 1 November (No. 22) 1841.

EXTRACT from the Proceedings of the Right Honourable the Governor-general of India in Council, in the Revenue Department, under date the 26th of April 1841.

(No. 1,122 of 1841—Territorial Department, Revenue.)

(No. 17.)

From *L. R. Reid*, Esq. Chief Secretary to the Government of Bombay, to *T. H. Maddock*, Esq. Secretary to the Government of India ; dated Bombay Castle, 8 April 1841.

Sir,

WITH reference to para. 29 of the resolution passed by the Honourable the Governor in Council on the 27th February last, relating to the withdrawal of the interference of Government with native religious institutions, under this Presidency, and forwarded with my letter of the same date ; I am directed to transmit, for the information of the Right honourable the Governor-general of India in Council, the accompanying copy of a letter from the collector of Dharwar, dated the 17th ultimo, reporting that no pilgrim tax exists in that collectorate.

I have, &c.  
(signed) *L. R. Reid*,  
Chief Secretary to Government.

(No. 23 of 1841—Territorial Department, Revenue.)

From *E. B. Mills*, Esq. Collector Dharwar, to *L. R. Reid*, Chief Secretary to Government, Bombay ; dated Dharwar, 17 March 1841.

Sir,

WITH reference to para. 30 of the Government resolution transmitted to me with your letter, dated the 27th ultimo, No. 626, I have the honour to acquaint you that there is no pilgrim tax in this collectorate at present. It existed, however, at Goodapoor Ellama's shrine, and a few other places, whilst this was a principal collectorate, and has since been discontinued by order of Government. It was a levy of one pice on every cocoa-nut offered by individuals to the idols. In case of any cloth or ornaments being presented for the use of the idol, the value of the same was also to be paid to Government, to secure the gift for the benefit of the idol.

I have, &c.  
(signed) *E. B. Mills*, Collector.  
(True copy.)  
(signed) *L. R. Reid*,  
Chief Secretary to Government.

The foregoing letter requires no order.

#### Appendix, No. 5.

ENCLOSURES to Para. 30, INDIA REVENUE LETTER, 1 November (No. 22) 1841.

EXTRACT from the Proceedings of the Right Honourable the Governor-general of India in Council, in the Revenue Department, under date the 14th of June 1841.

(No. 1,653 of 1841—Territorial Department, Revenue.)

(No. 7.)

From *L. R. Reid*, Esq. Chief Secretary to the Government of Bombay, to *T. H. Maddock*, Esq. Secretary to the Government of India ; dated Bombay Castle, 22 May 1841.

Sir,

I AM directed by the Honourable the Governor in Council to acknowledge the receipt of your letter, No. 41, dated the 5th ultimo, conveying the approbation of the Government of India at the proceedings adopted by this Court in withdrawing all interference from the native religious institutions of the country.

2. In compliance with the wish expressed in para. 2 of your letter, I am desired to transmit, for submission to the Right honourable the Governor-general of India in Council, the accompanying copies of a letter from the collector of Kaira, dated the 27th March last, and of the reply thereto, dated the 26th ultimo, relative to the future management of the Inam villages of Dakoor and Kunjeeree, attached to the temple of Runchorjee.

3. From these his Lordship in Council will observe that the management of the Inam villages has been vested in Gunputroo Munnohur Tambekur, grandson of the original manager, who has agreed to carry on the affairs of the villages, and of the temple generally, in the same manner as has hitherto been done, under the superintendence of Government, holding himself answerable to a Punchayet, or committee appointed for the purpose, for any misappropriation of the revenue arising to the institution. For the conduct of police duties in the villages in question, Tambekur is to be invested with a Sunnud of police powers, under Regulation XV. of 1827, section 2, c. 1.

4. The Governor in Council is not aware of any objections to the mode recommended in your 3d para. of supplying vacancies in the committee to whom the management of religious establishments is entrusted, and they will accordingly be adopted wherever practicable.

5. His Honour in Council admits the inexpediency of legislating in regard to the delicate subject of Hindoo or Mahomedan religious institutions, and concurs in opinion with his Lordship in Council, that the Company's Courts may act under existing laws, so as to render any further enactment unnecessary; at all events the experiment should be tried.

I have, &c.  
(signed) L. R. Reid, Chief Secretary.

(No. 71 of 1841—Territorial Department, Revenue.)

(No. 8.)

From N. Kirkland, Esq. Collector, Kaira, to L. R. Reid, Esq. Chief Secretary to Government, Bombay; dated 27 March 1841.

Sir,

In acknowledging the receipt of your letter, No. 625, dated 27th ultimo, transmitting for my information and guidance an extract of a resolution of Government connected with the question of withdrawing from all interference in the management or control of the native religious institutions of the country, I do myself the honour to state, for the information of the Honourable the Governor in Council, that Tambaykur Gunputrowe Monohur, the grandson of Tambaykur Gopal Wissmanath, the original manager of the villages of Dakore and Kunjeree, in Enam (from the Peishwa and Guickawaree Governments to the temple of the idol Runchorjee), inhabitant of Sattara, but for the last year residing at Dakore, was called before me and made acquainted with the intention of Government withdrawing its interference from the management of the "Swastan" villages of Dakore and Kunjeree, and placing the same in the Vinutdar's hands, as the head of the Tambeykur family, and he has agreed to conduct the affairs in the manner detailed below.

Enclosure.

1. That he will collect the revenues of the villages of Dakore and Kunjeree, from which he will deduct the expenses in the same manner as has hitherto been done by Government, and as settled in the decree of the Sudder Adawlut, dated 25th February 1836, and exhibit the accounts annually to a Punchayet or committee, as recommended in my letter of the 9th September 1837, No. 171; and if that body should consider any item misapplied, it will be refunded and credited to the revenues of the temple.

2. The establishment for conducting the police affairs of the Swastan villages has been fixed as under, with the consent of the Vinutdar:

1 Car-koon, on a salary per annum of	-	-	-	-	-	Rs. 25	-
1 Mussalchee or Furras, ditto	-	-	-	-	-	4	-
Contingent expenses, ditto	-	-	-	-	-	2	-
Subundry:						31	-
1 Jemadar, ditto	-	-	-	-	Rs. 10	-	-
20 Peons at 4 rs. each	-	-	-	-	80	-	-
1 Runsegea, ditto	-	-	-	-	3	8	-
						93	8
Rupees						124	8

The above expense, 124 rs. 8 an. per mensem, is to be defrayed from the revenues of the temple of Runchorjee.

3. That the police affairs at present conducted according to Regulation by the Car-koon of the said Gunputrow, be continued in the same manner, under his (Gunputrow's) superintendence; and as the old Karkoon, Junardhun Suddasew, is well acquainted with the business, it will be done according to Regulations, consequently some arrangements should be made to entrust him (Gunputrow) with the superintendence of the police duties.

4. The above is Tambeykur's proposition, and I am respectfully of opinion that the present police authority, according to sec. 41, clause 1, Regulation XII. of 1827, and Regulation IV. sec. 5, of 1830, vested in Tambeykur's Car-koon, be cancelled, and a Sun-

nud, under Regulation XV. sec. 2, cl. 1, of 1827, similar to those vesting landholders with police authority, be given to Tambeykur Gunputrow Monohur, the manager of the Enamee villages aforesaid. He is about 25 years of age, and seems to be intelligent, and with the aid of his old experienced Karkoon, I have no doubt will be able to carry on the police duties in an efficient and proper manner. I would therefore solicit the sanction of Government to issue the said Sunnud to Gunputrow, and with it the management of the affairs of the temple and the collection of revenues from its villages will be made over to him. The police assistance at present afforded from the neighbouring mahals should still be continued on the occasion of large assemblages of people at Dakore.

I have, &c.  
(signed) N. Kirkland, Collector.

Kaira Collector's-office, Neraid,  
27 March 1841.

(No. 1,380 of 1841—Territorial Department, Revenue.)

From L. R. Reid, Esq. Chief Secretary to the Government of Bombay, to the Collector of Kaira; dated 26 April 1841.

Sir,

I AM directed to acknowledge the receipt of your letter, dated the 27th ultimo, No. 71, and to inform you that the Honourable the Governor in Council approves of the arrangement proposed by Tambekur Gunputroo Munohur, consequent on the withdrawal of the interference of Government for the future management of the Inam villages of Dakore and Kunjeree, attached to the temple of Runchorjee.

A Sunnud, vesting Gunputrow with police powers in the above villages, will be issued from the Judicial Department.

I have, &c.  
(signed) L. R. Reid, Chief Secretary.

Bombay Castle, 26 April 1841.

(True copies)  
(signed) S. R. Reid, Chief Secretary.

(No. 82.)

(No. 9.)

From T. H. Maddock, Esq. Secretary to the Government of India, to L. R. Reid, Esq. Chief Secretary to the Government of Bombay; dated 14 June 1841.

Sir,

Rev. Dept.

I AM directed to acknowledge the receipt of your letter, No. 1,658, dated the 22d ultimo, with its enclosures, and in reply to convey the approval of the Governor-general of India in Council to the arrangements sanctioned by the Honourable the Governor in Council, consequent on the withdrawal of Government interference for the future management of the Inam villages of Dakoor and Kunjeree, within the Kaira collectorate, attached to the temple of Runchorjee.

I have, &c.  
(signed) T. H. Maddock,  
Secretary to the Government of India.

Fort William, 14 June 1841.

#### Appendix, No. 6.

ENCLOSURES to Para. 31, INDIA REVENUE LETTER, 1 November (No. 22) 1841.

EXTRACT from the Proceedings of the Right honourable the Governor-general of India in Council, in the Revenue Department, under date 31 May 1841.

(No. 1,555 of 1841—Territorial Department, Revenue.)

(No. 22.)

From L. R. Reid, Esq. Chief Secretary to the Government of Bombay, to T. H. Maddock, Esq. Secretary to the Government of India; dated 10 May 1841.

Sir,

I AM directed by the Honourable the Governor in Council to transmit, for the purpose of being laid before the Right honourable the Governor-general of India in Council, the accompanying copies of a petition from an individual named Moenoraz Bhut Bin Gunesh Bhut

No. 1. Petition,  
dated 17 Apr. 1840.  
No. 2. Acting Col-  
lector's Report,  
dated 11 Sept. 1840.  
No. 3. Govt. Letter  
to ditto, dated 22  
Oct. 1840.  
No. 4. First. Asst.  
Collector's Letter,  
dated 13 Apr. 1841.

Bhut Bhide, and the report thereon, by the acting collector of Poona, together with the correspondence which it entailed.

2. The petitioner, it will be observed, claims an allowance of 30 rs. 2 a. which had been granted by the Paishwa's Mamlutdar in A.D. 1816, the year preceding the breaking out of the war, for the support of the temple of Shri Ramchunder, in the Warra Kusha of the Poona collectorate, and was continued up to 1835, when it was transferred by the original grantee to the father of the petitioner.

Rs. 30. 2.

3. The acting collector, in reporting on this case, recommended that the allowance should be continued to the petitioner during his life; but as it does not come within any of the rules laid down for the decision of claims to Warshashuns, I am directed to submit it for the consideration and orders of his Lordship in Council.

4. The allowance was conferred by a Mamlutdar who had, strictly speaking, no authority for this purpose, and was never recognized by the Peishwa's government, which was overthrown in the subsequent year; but as the amount is small, and as it has been enjoyed to the present time, and is appropriated entirely to the service of the temple, the Honourable the Governor in Council recommends that it may be continued in perpetuity as a Dewusthun.

I have, &c.  
(signed) L. R. Reid,  
Chief Secretary to Government.

Bombay Castle, 10 May 1841.

(No. 23.)

To the Right honourable the Governor in Council, Bombay.

The humble Petition of *Moneraz Bingunesh Bhut Bhide*, Poozaree in the temple of Rumchundra, in the village of Kusha Wade, in the district of Khed :

Most respectfully sheweth,

THAT your petitioner humbly begs to tell, that Anaut Bhut Bin Govind Bhut Augul erected a temple of Ram, in the village of Kusha Wade, and for the expenses of the temple Government was pleased to bestow a certain allowance by taxing every village in that district, which was received until Fusly year 1243; but although it was stopped for an inquiry in the year 1244, yet it was collected from the village into the Mamlutdar's treasury.

Enclosure.

Your petitioner afterwards applied to Mr. Escombe, assistant collector, to continue the allowance for the expenses of Ram's temple; that gentleman was pleased to inquire into it, and recommend to continue the allowances as before. Your petitioner has not yet received either an answer or the deposit of some of allowance in the Mamlutdar's treasury; your petitioner, during the interval, has supplied the money for the expenses of Ram's temple; but he being now unable for the future, begs your Honor would be kind as to continue the allowances, and to direct the Mamlutdar to pay the deposit some of money, from the year 1244, and for which act of kindness. That there is a temple of Ram in Kusha Wade, which is built by Govind Bhut Augul, and in which the idolatry of images are established. The revenue of the villages in Kusha Wade was continued by the Peshwa's government, in the time of Baji Row the Second, for the worship of God, as an annual pension, and it was also continued by the English Government until the year Fusly 1243, but in the year 1244 Fusly the pension of Government had been stopped for an examining whether it was true or not. Your petitioner has given the representation, in order to receive the money that is collected under the Mamlutdar's care in the said Cushas; accordingly Mr. Escombe examining it and wrote to Government, but your petitioner did not the money get.

Your petitioner as in, &c. &c.

Poona, 17 April 1840.

(signed) *Moneraz Bhutt Bin Gunesh Bhide*.

(No. 1,219 of 1840.)

(No. 2.)

REPORT by the Acting Collector of Poona.

IN reply to this petition, the acting collector begs to forward an extract from a report on the Warshasuns in the Khair Pergunna, drawn up by Mr. Escombe while in charge.

"No. 15. Rham Bhut Bin Gunnesh Bhut claims a Wurshasun of rupees 30. 2. from Pait Kossee. In A. D. 1816, Ballajee Luximon granted the Wurshasun in question to Annund Bhut Bin Govind Bhut, who enjoyed it till A. D. 1835. In that year he conveyed it away to Gunesh Bhut Bin Chrishn Bhut Bheeray, the father of the present claimant. The grant was made for the support of the temple of Ramchunder at Warra, to which purpose the allowance is said to be still applied. The grant is not hereditary, and for the reasons stated in No. 11, it is invalid; but as the allowance is devoted to the maintenance of the temple, Government, as an act of grace, may be disposed to continue so much as may be actually necessary to fulfil the purpose for which the grant was originally made."

2d. From the above, Government will perceive, that this is a case that does not come under any of the rules laid down by Government for the decision of the claims to Wurshasuns. The date of the original grant of this Wurshasun is very recent, viz. A. D. 1816, and it was held by the original grantee until A. D. 1835, when it was transferred to the father of the

petitioner. The grant is not hereditary, but the acting collector begs to recommend that it may be continued to the petitioner during his life.

3d. As Mr. Escombe adverts to Case No. 11 in the above extract, the acting collector begs to annex Mr. Escombe's opinion on that case, for the information of Government.

Collector's Office, Poona,  
11 September 1840.

(signed) P. Stewart,  
Acting Collector.

EXTRACT from a Wurshasun Report drawn up by Mr. Escombe, comprising the Purgunnahs of *Khair* and *Mawul*.

No. 11. Abba Bhut Bin Balum Bhut claims a Wurshasun from Turfs Goreh and Ambegaon. The Wurshasun was first granted in 1727-28 Lukay, A.D. 1804 and 1805, by Nursing Kunderow, Mumlutdar to Balam Bhut in Sudasew Bhut, the father of the present claimant. The claim was not recognised by any Doomal Pute granted by the Peishwa, and had the grant been one of land, it would, according to the Regulations have been invalid, as made subsequently to the year 1803; so in like manner, and for the same reasons, must the present claims be disallowed. Government may, however, be disposed to continue the allowance during the life of Abba Bhut Bin Balum Bhut.

(True extract.)  
(signed) P. Stewart,  
Acting Collector.

(No. 3.)

(No. 3,257 of 1840.)

From L. R. Reid, Esq. Chief Secretary to the Government of Bombay, to P. Stewart, Esq. Acting Collector of Poona; dated 22 October 1840.

Sir,

I AM directed by the Honourable the Governor in Council to acknowledge the receipt of your report, dated the 11th ultimo, and its accompaniment, on the petition from Moneraz Bhut Bin Gunesh Bhut Bhide, praying for the continuance to him of a Wurshashun allowance enjoyed by his late father from the Ghorah and Ambeygaon Turfs of your collectorate, and to request that you will report what portion of this Wurshashun was appropriated to the use of the temple of Shri Ramchunder at Warra.

Bombay Castle, 22 Oct. 1840. I have, &c.  
(signed) L. R. Reid, Chief Secretary.

(No. 4.)

(No. 574 of 1841.)

From P. Scott, Esq. Principal Assistant Collector in charge, Poona, to L. R. Reid, Esq. Chief Secretary to Government, Bombay; dated 13 April 1841.

Sir,

I HAVE now the honour to reply to your letter, No. 3,257, dated 22d October last, requesting to know what portion of the Wurshashun allowance enjoyed by the late father of Moneraz Bhut Bin Gunesh Bhut Bhide, from the Gorah and Ambegaon Turfs, was appropriated to the use of the temple of Shree Ramchunder at Warra, and to state that on inquiry, it appears that the whole amount of rupees 30 was exclusively consigned to the temple in question.

Collector's Office, Poona,  
13 April 1841. I have, &c.  
(signed) P. Scott,  
Principal Assistant Collector.

(True copies.)  
(signed) L. R. Reid, Chief Secretary.

(No. 24.)

(No. 79.)

From T. H. Maddock, Esq. Secretary to the Government of India, to L. R. Reid, Esq. Chief Secretary to the Government of Bombay; dated 31 May 1841.

Sir,

Rev. Dept.

I AM directed to acknowledge the receipt of your letter, No. 1,555, dated the 10th instant, with its enclosures, relating to the continuance of an allowance of rupees 30. 2. for the support of the temple of Shri Ramchunder in the Warra Kusha of the Poona collectorate, and in reply, to state that the Governor-general of India in Council, under all the circumstances of the case, is unable to sanction the continuance in perpetuity of the allowance in question, as a Dewasthan.

Fort William, 31 May 1841.

I have, &c.  
(signed) T. H. Maddock,  
Secretary to the Government of India.

## Appendix, No. 7.

## ENCLOSURES to Para. 39, INDIA REVENUE LETTER, 13 June (No. 9) 1842.

EXTRACT from the Proceedings of the Right honourable the Governor-general of India in Council in the Revenue Department, under date the 6th December 1841.

(No. 25.)

(No. 1,640.)

From *R. N. C. Hamilton*, Esq., Officiating Secretary to Government of North-Western Provinces, to *T. H. Maddock*, Esq., Secretary to the Government of India, Fort William; dated 11 November 1841.

Sir,

I AM directed to forward, for submission to his Lordship in Council, the original papers noted in the margin, relating to the proceeds of certain shrines in Zillah Moradabad.

2. The Honourable the Lieutenant-governor observes that the appropriation by the Government of the collections derived from these establishments, seems inconsistent with the principles laid down by the Honourable the Court of Directors in their despatches, dated respectively the 3d and 31st March last.

3. It will be perceived that the sum to be relinquished averages rupees 2,851. 10.

4. His Honor desires me to propose that the dispensary at Moradabad be placed on the same footing as those at other stations, and to remark that the pension of Data Ram, amounting to rupees 191. 8. though now placed to account of the shrines, originally formed an independent charge against the Government, like any other. It must, therefore, be continued separately after the renunciation of the proceeds.

		Rev. Dept.
		Letter, No. 281,
		dated 16 July, from
		Board.
		Reply, dated 9 Aug.
		Letter, No. 442,
		dated 8 Sept. from
		Board, with Encls.
For 1836-37	- -	Rs. 5,743 15 6
1837-38	- -	2,105 9
1838-39	- -	3,331 - -
1839-40	- -	795 15 -
1840-41	- -	2,282 1 -
Total	- -	14,258 2 3
Average	- -	2,851 10 -

I have, &amp;c.

(signed) *R. N. C. Hamilton*,

Officiating Secretary to Government of N. W. P.

Agra, 11 Nov. 1841.

## ABSTRACT.

Forwards, for submission to His Lordship in Council, original papers relating to the proceeds of certain shrines in zillah Moradabad.

(No. 28.)

(No. 281.)

From *H. M. Elliot*, Esq., Secretary to the Sudder Board of Revenue, North-Western Provinces, Allahabad, to *J. Thomason*, Esq., Secretary to Government, North-Western Provinces, Agra; dated 16 July 1841.

Enclosure.

Sir,

I AM desired by the Sudder Board of Revenue, North Western Provinces, to refer you to the correspondence noted in the margin, and to request that you will state whether the application of the proceeds of the shrines of Moteeshur Mahadeo in Kasheepoer, and Chuttree Sahir Peer in Thakoordwara, to the support of a dispensary, militates in any way against the orders of the Honourable Court conveyed in your assistant's letter, No. 886, dated the 29th ultimo.

Revenue.

Board to Government, dated 31 Jan. 1834, No. 39  
Orders of Government in reply, dated 17 Februar  
1834, No. 167.

Board to Government, dated 12 Dec. 1834, No. 474.  
Orders of Government in reply, dated 29 Dec.  
1834, No. 398.

2. The Board are led to believe that a similar application of part of the proceeds of the Juggernaut pilgrimage has been disapproved of, and as the observance of the same principle may be perhaps enjoined in these provinces, the Board beg to apply for his Honor's instructions on the occasion.

I have, &amp;c.

(signed) *H. M. Elliot*, Secretary.

Sudder Board of Revenue, North-Western Provinces,  
Allahabad, 16 July 1841.

(No. 1,128.)

From *J. Thomason*, Esq., Secretary to the Government, North Westrn Provinces, to Secretary Sudder Board of Revenue; dated 9 August 1841.

Sir,

I AM directed to acknowledge the receipt of your letter, No. 281, dated the 16th July, respecting the proceeds of certain shrines in Moradabad, and in reply to state, for the information of the Board, that his Honor is disposed to think the maintenance of these collections on the part of Government is inconsistent with the principles laid down by the Court of Directors. The information, however, on the records of this office is incomplete, and further particulars are necessary before the subject can be submitted to the Government of India.

Rev. Dept:



## CORRESPONDENCE RELATIVE TO

2. The Board are, accordingly, requested to ascertain and report from what shrines the collections are made, from whom, and in what manner, and to whom the present proceeds will belong if relinquished by the Government. Information is also requisite as to the mode in which the collections are appropriated, and what will be the obligations devolved on the Government when this source of revenue is cut off. It is also desirable to receive an abstract account of the receipts and disbursements of the fund during the last five years, showing the annual amount of the collections at each shrine, and the annual disbursements under each separate head.

I have, &c.

(signed) *J. Thomason,*

Agra, 9 August 1841.

Secretary to Government, North-Western Provinces.

(No. 442.)

From *H. M. Elliot*, Esq., Secretary to the Sudder Board of Revenue, North-Western Provinces, Allahabad, to *J. Thomason*, Esq., Secretary to the Government, North-Western Provinces; dated 8 September 1841.

Sir,

Revenue.

WITH reference to your letter, No. 1,128, dated the 9th August last, I am directed by the Sudder Board of Revenue, North-Western Provinces, to request that you will submit, for the information and orders of his Honor the Lieutenant-governor, the accompanying letter and enclosure received from the Officiating Commissioner of the Rohilcund division, which appear to give all the information required by Government respecting the appropriation of the proceeds of certain shrines in the district of Moradabad.

I have, &c.

(signed) *H. M. Elliot*, Secretary.

Sudder Board of Revenue, North-Western Provinces,  
Allahabad, 8 September 1841.

Enclosures.

From Officiating Commissioner of Rohilcund, dated 21 September 1841 (No. 289), with a Letter from Collector of Moradabad, dated 13 September (No. 317.)

(No. 289.)

From *W. J. Conolly*, Esq., Officiating Commissioner, Moradabad, to the Sudder Board of Revenue, North-Western Provinces, Allahabad; dated 21 September 1841.

Gentlemen,

I HAVE the honour to acknowledge the receipt of your letter of the 24th ultimo, No. 291, regarding certain shrines in the district of Moradabad, and in reply to submit the accompanying report from the officiating deputy collector, Mr. Cocks. Your Board will observe that the total number of shrines is five, the collections from all of which are appropriated to the support of the dispensary in the city of Moradabad.

2. I should enter into further particulars regarding the history of these shrines, but I observe your Board have already all the necessary information before you in Mr. Blunt's letter, No. 32, of the 11th February last, and the previous correspondence therein noted. If the further connexion of Government with these endowments is considered to militate against the late orders of the Honourable Court on the subject, I trust the same aid will continue to be bestowed in another shape on the dispensary at Moradabad, which is a highly useful institution, and the only one of the kind in the district.

I have, &c.

(signed) *W. J. Conolly*,  
Officiating Commissioner

Commissioner's Office, Rohilcund Division,  
Moradabad, 21 September 1841.

P. S.—The return of the enclosure is requested.

(No. 317.)

Enclosure.

From Officiating Collector to *W. J. Conolly*, Esq., Officiating Commissioner of Rohilcund Division, Moradabad; dated 13 September 1841.

Sir,

IN reply to your letter, No. 294, dated the 4th September, I have the honour to inform you, 1st, That the collections are made from the following shrines: Tan Seetula, in the village of Gundoopoor, Pergunnah Sumbhul, in Bhagpoor, Pergunnah Surkuna; from Motee Shuro, Mahadej and Ransuttee and Munda Devee in Kasheepoor, and from Churree Zahirpeer in Thakoordwarah. 2d, The collections are realised in the same way as the revenue, and the proceeds will belong, if relinquished by Government, to the proprietors of the shrines and not to the Zemindars. 3d, The collections are spent on a dispensary, the expenses of which will devolve upon Government, should this source of revenue be cut off.

I herewith

## EAST INDIA AFFAIRS.

23

I herewith transmit an Abstract Account of the Receipts and Disbursements, as desired:—

For the Year commencing May 1836, and ending April 1837.

RECEIPTS.				DISBURSEMENTS.			
From Pergunnah Sumbhul Account:				Disbursed, as per Monthly Abstracts, from February 1836 to January 1837, as charged on the Treasury Accounts for establishment, &c. of the Dispensary of Moradabad			
1243 F. s.	-	154	- -	Rs.	a.	p.	
1244 "	-	61	- -				
			215				
From Pergunnah Surkurrah Account:				Medicines purchased for the use of the Dispensary			
1243 F. s.	-	219	- -				
1244 "	-	51	- -				
			270				
Kasheepoor	-	-	5,258 15 6	Rent of the building appropriated for the Dispensary from February 1836 to January 1837			
Total Rupees			5,743 15 6	Total Rupees			2,044 13 9

For the Year commencing May 1837, and ending April 1838.

RECEIPTS.				DISBURSEMENTS.			
From Pergunnah Sumbhul Account:				Disbursed, as per Monthly Abstracts, from February 1837 to February 1838, as charged in the Treasury Account for the establishment, &c. of the Moradabad Dispensary			
1244 F. s.	-	189	- -	Rs.	a.	p.	
1245 "	-	31	- -				
			220				
From Pergunnah Surkurrah Account:				Medicines purchased for the use of the Dispensary			
1244 F. s.	-	230	- -				
1245 "	-	20	- -				
			250				
Kasheepore	-	-	1,630 9 -	Rent of the Dispensary from February 1837 to February 1838			
Amount credited on account saving from diet charges of patients			4 9 9	Pension of Dataram, native doctor, for 3½ years, up to 1244 F. s.			
Total Rupees			2,105 2 9	Total Rupees			4,044 13 6

For the Year commencing May 1838, and ending April 1839.

RECEIPTS.				DISBURSEMENTS.			
From Pergunnah Sumbhul Account:				Disbursed, as per Monthly Abstracts, from March to December 1838, as charged in the Treasury Accounts, for the establishment, &c. of the Moradabad Dispensary			
1244 F. s.	-	137	- -	Rs.	a.	p.	
1245 "	-	104	- -				
1245 "	-	49	9 -				
			290 9 -				
From Pergunnah Surkurrah Account:				Medicines purchased for the use of the Dispensary			
1245 F. s.	-	149	- -				
1246 "	-	31	- -				
			180				
From Kasheepoor Account:				Rent of the Dispensary from March to December 1838			
1245 F. s.	-	1,791	7 -				
1246 "	-	1,069	- -				
			2,860 7 -	Pension of Dataram, native doctor, for 1245 F. s.			
Total Rupees			3,331 - -	Total Rupees			2,281 - 7

For the Year commencing May 1839 to April 1840.

RECEIPTS.				DISBURSEMENTS.			
From Pergunnah Sumbhul Account:				Disbursed, per Monthly Abstracts, from January 1839 to January 1840, as charged in the Treasury Accounts, for the establishment, &c. of the Moradabad Dispensary			
1246 F. s.	-	100	-	Rs.	a.	p.	
1247 "	-	85	-				
			135				
From Pergunnah Surkurrah Account:				Medicines purchased for the use of the Dispensary			
1246 F. s.	-	169	-				1,622 2 6
1247 "	-	49	-				270 2 11
			218				
From Kasheepore Account:				Rent of the Dispensary, from January to April 1840			
1246 F. s.	-	300	-				50 - -
1247 "	-	117 15	-	Pension of Dataram, native doctor, for 1246 F. s.			
			417 15				191 12 -
Thakoordwarah	-	-	25	Repairs of the shrine of Motashoer Mahadeo			
							11 9 6
Total Rupees			795 15	Total Rupees			2,145 10 11

For the Year commencing May 1840, and ending April 1841.

RECEIPTS.				DISBURSEMENTS.			
From Pergunnah Sumbhul Account:				Disbursed, as per Monthly Abstracts, from February 1840 to February 1841, as charged in the Treasury Accounts, for the establishment, &c. of the Moradabad Dispensary			
1245 F. s.	-	17 7	-	Rs.	a.	p.	
1246 "	-	11 9	-				
1247 "	-	128	-				
1248 "	-	30	-				
			187				2,082 13 6
From Pergunnah Surkurrah Account:				Medicines purchased for the use of the Dispensary			
1247 F. s.	-	151	-				354 - 9
1248 "	-	31	-	Pension of Dataram, native doctor, for 1247 F. s.			
			182				191 12 -
From Kasheepoor Account:							
1247 F. s.	-	1,260 1	-				
1248 "	-	628	-				
			1,888 1				
From Koordwarrah Account:							
1247 F. s.	-	25	-				
			25				
Total Rupees			2,282 1	Total Rupees			2,628 10 3

Moradabad Collectorship,  
13 September 1841.I have, &c.  
(signed) A. H. Cocks,  
Officiating Deputy Collector.

P.S.—The original enclosures are herewith transmitted.

(No. 27.)

(No. 178.)

From T. H. Maddock, Esq., Secretary to the Government of India, to R. N. C. Hamilton, Esq., Officiating Secretary to Government of North-Western Provinces; dated 6 December 1841.

Rev. Dept.

Sir,

I AM directed to acknowledge the receipt of your letter (No. 1,640), dated the 11th instant, with its enclosures, and, in reply, to convey the authority of the Governor-general of India in Council for the relinquishment of the proceeds arising from certain shrines in Zillah Moradabad, averaging rupees 2,851. 10. 4.

2. The proposal for the Moradabad Dispensary and the pension of Dataram, referred to in the 4th para. of your letter, will be considered in the General Department, to which the subjects more properly belong.

3. The original enclosures of your letter are returned herewith.

Fort William, 6 Dec. 1841.

I have, &c.  
(signed) T. H. Maddock,  
Secretary to the Government of India.

A copy

A copy of the foregoing correspondence to be sent to the General Department, for the consideration of the proposal regarding the Moradabad Dispensary and the pension to Dataram, referred to in the 4th para. of Mr. Hamilton's letter of the 11th ultimo.

### Appendix, No. 8.

ENCLOSURES to Para. 29, INDIA REVENUE LETTER, 26 August (No. 13) 1842.

EXTRACT from the Proceedings of the Right honourable the Governor-general of India in Council, in the Revenue Department, under date 25 March 1839.

(No. 21.)

(No. 90.)

From *T. H. Maddock*, Esq., Secretary to the Government of India, to *F. Currie*, Esq., Officiating Secretary to the Governor-general for the North-Western Provinces; dated Fort William, 25 March 1839.

Sir,

The Honourable the President in Council having taken into consideration the papers which accompanied Mr. Officiating Secretary Thomason's letter (No. 593), dated the 10th November 1837, observes, that the return therein made to Mr. Secretary Macnaghten's letter (No. 6), of the 25th January 1836, does not exhibit any appropriations of the public resources, in money, to purposes connected with the Hindoo and Mahomedan religions in the North-Western Provinces, the return being confined to alienations of land. You are requested, with the permission of the Right honourable the Governor-general, to ascertain what money payments, if any, are made from the public resources for similar purposes.

2. His Honor in Council also remarks that the report required in para. 2 of Mr. Secretary Macnaghten's letter, above referred to, has not been furnished. This information was requested from all the Presidencies by desire of the Honourable Court.

I have, &c.

(signed) *J. P. Grant*,  
Officiating Secretary to Government of India.

Rev. Dept.

EXTRACT from the Proceedings of the Right honourable the Governor-general of India in Council in the Revenue Department, under date 14 March 1842.

(No. 12.)

(No. 191.)

From *R. N. C. Hamilton*, Esq., Officiating Secretary to the Government of the North-Western Provinces, to *T. H. Maddock*, Esq., Secretary to the Government of India, Revenue Department, Fort William; dated Agra, 1 February 1842.

Sir,

WITH reference to Mr. Officiating Secretary Grant's letter (No. 90), dated the 25th March 1839, I am directed to forward the accompanying copy of a letter and statement received from the Secretary Sudder Board of Revenue, showing the amount of funds appropriated from the public resources for purposes of the Hindoo and Mahomedan religions.

I am, &c.

(signed) *R. N. C. Hamilton*,  
Officiating Secretary to Government N. W. Provinces.

Rev. Dept.

(No. 14.)

From *H. M. Elliot*, Esq., Secretary to the Sudder Board of Revenue, North Western Provinces, Allahabad, to *R. N. C. Hamilton*, Esq., Officiating Secretary to the Government, North-Western Provinces, Agra; dated 11 January 1842.

Sir,

WITH reference to the orders of Government (No. 948), dated 22d July 1839, I am desired to forward a statement, showing the amount of appropriation of public resources, in money, to purposes connected with the Hindoo and Mahomedan religions in the North-Western Provinces. The proportion devoted to each respectively is shown in the margin, where also will be found an abstract of the preceding report, showing the estimated revenue of the endowments for the same purposes in land.

2. The Board regret that so much delay has occurred in submitting this report, but as much difficulty was experienced by the local officers in collecting for the first time the requisite information,

D

664.

Revenue.

Hindoos.			Mahomedans.		
Rs.	56,641	2 2	Rs.	53,834	5 3
	294,038	7 10		135,268	- 11
	350,679	10 -		189,102	6 2

## CORRESPONDENCE RELATIVE TO

formation, it was not possible for the Board to submit it at an earlier period for his Honor's information.

I have, &c.  
(signed) *H. M. Elliot,*  
Secretary.

Sudder Board of Revenue, North-Western Provinces,  
Allahabad, 11 January 1842.

**GENERAL ABSTRACT STATEMENT, showing the Extent of the Public Resources annually alienated for Purposes connected with the Mahomedan and Hindoo Religions in the North-Western Provinces.**

DIVISION.	DISTRICT.	ENDOWMENT IN MONEY.			PROPORTION ALIENATED TO	
		British Grant.	Former Grant.	Total Annual Amount.	Mahomedans.	Hindoo.
		Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Delhi - -	Bhutteeanal - -	—	—	—	—	—
	Paneeput - -	2,291 3 -	- - -	2,291 3 -	2,257 14 -	33 5 -
	Hurreanah - -	1,830 12 -	1,818 9 -	3,649 5 -	3,419 8 -	229 13 -
	Delhi - -	280 - -	2,242 10 -	2,522 10 -	2,477 - -	45 10 -
	Rohtuk - -	- - -	145 14 -	145 14 -	109 3 -	36 11 -
	Gurgaon - -	1,075 - -	8 - -	1,083 - -	383 - -	750 - -
	TOTAL - - -	5,476 15 -	4,215 1 -	9,692 - -	8,596 9 -	1,096 7 -
Meerut - -	Deyrah Dhun - -	- - -	2,891 - -	2,891 - -	- - -	2,891 - -
	Saharunpore - -	300 - -	18,040 - -	18,340 - -	17,317 - -	1,023 - -
	Moozuffurnuggur - -	- - -	2,191 4 1	2,191 4 1	1,817 12 -	373 8 1
	Meerut - -	- - -	640 12 3	640 12 3	479 4 3	161 8 -
	Boolundshahur - -	- - -	1,012 - 6	1,012 - 6	221 12 6	790 4 -
	Allyghur - -	- - -	16,245 1 10	16,245 1 10	10,497 12 7	5,747 5 3
	TOTAL - - -	300 - -	41,020 2 8	41,320 2 8	30,333 9 4	10,986 9 4
Kumaon - -	Kumaon Proper - -	- - -	829 1 -	829 1 -	- - -	829 1 -
	Gurhwal - -	- - -	10,987 6 7	10,987 6 7	- - -	10,987 6 7
	TOTAL - - -	- - -	14,816 7 7	11,816 7 7	- - -	11,816 7 7
Rohilkund - -	Bijnour - -	—	—	—	—	—
	Moradabad - -	- - -	895 5 10	895 5 10	895 5 10	—
	Saheswan (Budaon) - -	- - -	379 12 -	379 12 -	379 12 -	—
	Pillibheet - -	—	—	—	—	—
	Bareilly - -	994 6 5	7,729 2 6	8,723 8 11	4,785 5 -	3,938 3 11
	Shahjehanpore - -	- - -	2,981 5 1	2,981 5 1	1,641 13 8	1,339 7 5
	TOTAL - - -	994 6 5	11,985 9 5	12,979 15 10	7,702 4 6	5,277 11 4
Agra - -	Muttra - -	- - -	13,589 - 9	13,589 - 9	327 9 6	13,261 7 3
	Agra - -	- - -	2,142 12 -	2,142 12 -	155 4 -	1,987 8 -
	Furruckabad - -	- - -	2,200 18 10	2,200 18 10	1,186 - 10	1,014 13 -
	Mynpuree - -	- - -	10 13 8	10 3 8	10 3 8	—
	Etawah - -	- - -	48 3 4	48 3 4	48 3 4	—
	TOTAL - - -	- - -	17,991 11 7	17,991 11 7	1,727 15 4	16,263 12 3
Allahabad - -	Cawnpore - -	175 - -	889 10 3	1,064 10 3	515 13 3	548 13 -
	Futtehpore - -	- - -	125 13 6	125 13 6	125 13 6	—
	Kumeerpore - -	- - -	249 6 4	249 6 4	- - -	249 6 4
	Calpee - -	- - -	1,306 6 4	1,306 6 4	122 6 -	1,184 - 4
	Bundal - -	- - -	5,731 10 -	573 10 -	641 12 -	5,089 14 -
	Allahabad - -	- - -	279 8 4	279 8 4	279 8 4	—
	TOTAL - - -	175 - -	8,582 6 9	8,757 6 9	1,685 5 1	7,072 1 8

## GENERAL ABSTRACT STATEMENT, &amp;c.—continued.

DIVISION.	DISTRICT.	ENDOWMENT IN MONEY.			PROPORTION ALIENATED TO	
		British Grant.	Former Grant.	Total Annual Amount.	Mahomedans.	Hindoos.
		Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
Benares - - -	Goruckpore - - -	—	—	—	—	—
	Azimgurh - - -	- - -	124 2 -	124 2 -	32 14 -	91 4 -
	Juanpore - - -	—	—	—	—	—
	Mirzapore - - -	- - -	3,012 - -	3,012 - -	2,812 - -	200 - -
	Benares - - -	225 15 -	- - -	225 15 -	60 - -	165 15 -
	Ghazeepore - - -	23 4 -	73 2 -	96 6 -	23 4 -	78 2 -
	<b>TOTAL - - -</b>	<b>249 3 -</b>	<b>3,209 4 -</b>	<b>3,458 7 -</b>	<b>2,928 2 -</b>	<b>530 5 -</b>
Saugor - - -	Saugor - - -	- - -	2,017 - -	2,017 - -	388 - -	1,629 - -
	Jubalpoore - - -	- - -	840 8 -	840 8 -	194 - -	646 8 -
	Hoshungabad - - -	63 - -	1,538 12 -	1,601 12 -	278 8 -	1,323 4 -
	<b>TOTAL - - -</b>	<b>63 - -</b>	<b>4,396 4 -</b>	<b>4,459 4 -</b>	<b>860 8 -</b>	<b>3,598 12 -</b>

## ABSTRACT.

Dehli - - - - -	5,476 15 -	4,215 1 -	9,692 - -	8,596 9 -	1,095 7 -
Meerut - - - - -	300 - -	41,020 2 8	41,320 2 8	30,333 9 4	10,986 9 4
Kumaon - - - - -	- - -	11,816 7 7	11,816 7 7	- - -	11,816 7 7
Rohilcund - - - - -	994 6 5	11,985 9 5	12,979 15 10	7,702 4 6	5,277 11 4
Agra - - - - -	- - -	17,991 11 7	17,991 11 7	1,727 15 4	16,263 12 3
Allahabad - - - - -	175 - -	8,582 6 9	8,757 6 9	1,685 5 1	7,072 1 8
Benares - - - - -	249 3 -	3,209 4 -	3,458 7 -	2,928 2 -	530 5 -
Saugor - - - - -	63 - -	4,396 4 -	4,459 4 -	860 8 -	3,598 12 -
<b>TOTAL - - - Company's Rupees</b>	<b>7,252 8 5</b>	<b>103,216 15 -</b>	<b>110,475 7 5</b>	<b>53,834 5 3</b>	<b>56,641 2 2</b>

(signed) *H. M. Elliot*, Acting Secretary.

(True copies.)

(signed) *R. N. C. Hamilton*,  
Officiating Secretary to Government North-Western Provinces.Sudder Board of Revenue, North-Western Provinces, Allahabad,  
11 January 1842.

The foregoing letter requires no order.

## Appendix, No. 9.

ENCLOSURES to GOVERNOR-GENERAL'S FOREIGN (SECRET) LETTER,  
25 February 1844.

(No. 148 of 1843.)

(No. 1,259.)

From Secretary to Government of Scinde to *F. Currie, Esq.*, Secretary to Government  
with the Governor-general; dated Currachie, 6 December 1843.

Sir,

By direction of his Excellency the Governor of Scinde, I have the honour to forward, for submission to the Right honourable the Governor-general of India, copies of the correspondence detailed in the margin, having reference to a claim preferred by certain Syuds and others, residents of Tattah, for a continuation of certain grants made to them by the ex-Ameers and others. His Excellency is uncertain what may be his Lordship's wishes on this subject, and as the

From Captain Preedy, collector and magistrate at Currachie, No. 158, dated 14 Nov. 1843, to Secretary to Government of Scinde, with one Persian Enclosure.

No. 1,047, dated 16 Nov. from the latter to the former.  
No. 185, dated 28 Nov. from the former to the latter.  
No. 1,193, dated 29 Nov. from the latter to the former.  
No. 195, dated 2 Dec. from former to latter with four Persian Enclosures.

## CORRESPONDENCE RELATIVE TO

the petitioners have of course great influence in this country, he would wish before deciding to be favoured with his Lordship's instructions.

I have, &c.

(signed) *E. J. Brown*,  
Secretary to Government of Scinde.

(No. 158 of 1843.)

From the Collector and Magistrate of Kurrachie to the Secretary to Government of Scinde;  
dated Kurrachie, 14 November 1843.

Sir,

I HAVE the honour to enclose a petition from the Suyuds of Tatta, praying that certain allowances granted to them by the Ameers for the support of their religion, amounting to (14,000) fourteen thousand rupees per annum, may be continued.

I am decidedly of opinion, that this should not be granted, but I shall feel obliged by your submitting the question for his Excellency's decision.

I have, &c.

(signed) *H. W. Preedy*, Captain,  
Collector and Magistrate, Kurrachie.

Kurrachie, Collector and Magistrate's Office,  
14 November 1843.

(True copy.)  
(signed) *F. J. Brown*,  
Secretary to Government of Scinde.

(No. 1,047 of 1843.)

From the Secretary to Government of Scinde to Captain *Preedy*, Collector and Magistrate,  
Currachie; dated Currachie, 16 November 1843.

Sir,

By direction of his Excellency the Governor of Scinde, I have the honour to acknowledge the receipt of your letter, No. 158, of the 14th instant, and in reply to acquaint you that his Excellency would wish you to report fully on the petition of the Suyuds of Tattah, examining most carefully into the Sunnuds received by them from the ex-Ameers, and the reasons that existed for such large grants; you will also kindly give your reasons for so decidedly objecting to the grant in question being continued.

I have, &c.

(signed) *E. J. Brown*,  
Secretary to Government of Scinde.

(True copy.)  
(signed) *E. J. Brown*,  
Secretary to the Government of Scinde.

(No. 185 of 1843.)

From the Collector and Magistrate of Currachee to the Secretary to Government of Scinde;  
dated Currachee, 28 November 1843.

Sir,

I HAVE the honour to acknowledge the receipt of your letter, No. 1,047 of 1843, regarding a petition forwarded by the Suyuds of Tattah, and in compliance with His Excellency the Governor's instructions therein conveyed, beg to inform you that I have most carefully examined the Sunnuds received from the ex-Ameers by the Suyuds, Moollahs, Kazees, and Fakeers of Tatta, and find that the grants made to them are as follows, viz.:

By Meer Hussein Ally to 458 Syuds	} 36 Company's rupees per diem, or 1,080 rs. per mensem. Total, 12,960 Company's rupees per annum.
Moollahs, Kazees, and Fukkeers, residents of Tatta - - - -	

The whole of which sum was given by Meer Noor Mahomed, and continued by his son, in charity to the above individuals, to support them in idleness, under an idea that the Mahomedan religion would thereby be promoted and supported. Shah Jehan, Emperor of Delhi, granted to two Suyuds, residents of Tatta, viz. to Suyud Abdool Luteef and Abdool Nujjud

Nujjud 70 karwars of grain per annum, but this has not been continued to their descendants, either by the Kalloras or Talpoors. Their descendants, however, share with the other Suyuds in the above sum granted by Hoosain Ally. The Emperor Humayoon, when at Tattah in the year of the Hijree 950, granted in charity to Suyud Shaik Hussein Gelanee 2,000 ashrupees per annum and directed that the same should be continued to be paid by his descendants. The grant was not continued after Humayoon's death, but the descendants of the Suyud share in the above sum granted by the Ameers. In addition to the above grants are the following, viz. :

By Meer Hoossein Alli in the Beronoth of Tatta :

To Suyud Moolah Ally Shah 30 cassahs of moongh per annum.

To Suyud Ally Rukyah Shah 24 of rice per annum.

To Suyud Ally Buksh 12 rupees ditto.

By Meer Shadad in the Seree Purgunnah :

To Suyud Alli Ashkem Sherayee 7 Company's rupees 6 annas per mensem.

To Suyud Goolam Moortya Loofer 11 Company's rupees 6 annas per mensem.

To Suyud Mookly Alli Shah 4 Company's rupees per mensem.

20 rupees and 2 kanoors of Badjori per annum.

To Suyud Imaum Buksh 4 Company's rupees per mensem.

20 rupees per annum and two karwars of rice.

To Suyud Sauber Alli Shah 60 Hyderabad rupees and 3 karwars of rice per annum.

To Kazee Meer Alli 4 Company's rupees per mensem.

By Meer Subdarin Donejah Talooka :

To Bin Alli Sherajee 7 Hyderabad rupees per mensem.

By Meer Nusseer Khan in the Kukeralla Purgunnah :

To Meer Alli, Tyzool Ally, and Submun, sons of Mahomed Ashreef, 6 Hyderabad rupees per mensem.

To Suyud Murul Alli 7 Hyderabad rupees 8 annas per mensem.

To Suyud Nuzzur Alli 10 Hyderabad rupees per mensem.

By Meer Hoosein Ally :

To Sutok Ram Oodassee 2 karwars of rice per annum.

In conclusion, I beg to state that my reasons for objecting to the grants in question being continued are, first, because by continuing them we shall be contributing funds to the support of a religion which we know to be false. We are bound to tolerate all religions, but not I conceive to support any but our own. In the second place, by continuing these grants we afford the means of leading an idle dissolute life to nearly 500 individuals, who have no claim to such indulgence, and who would, were these grants discontinued, be obliged to turn their attention to some useful occupation. This many of them have already done within the last ten months, during which period they have received no allowance, and the others, if unsupported by Government, would doubtless soon follow their example.

I have, &c.

(signed) *H. W. Preedy*, Captain,  
Collector and Magistrate, Kurrachee.

Kurrachee, Collector's and Magistrate's Office,  
28 November 1843.

(True copy.)

(signed) *E. J. Brown*,  
Secretary to Government of Scinde.

(No. 1,193 of 1843.)

From the Secretary to Government of Scinde to Captain *Preedy*, Collector and Magistrate, Kurrachee; dated Kurrachee, 29 November 1843.

Sir,

By direction of His Excellency the Governor of Scinde, I have the honour to acknowledge the receipt of your letter, No. 185, of yesterday's date, and to request that you will forward to me certified copies of the Sunnuds of the Suyuds and others of Tatta on which they ground their claims.

I have, &c.

(signed) *E. J. Brown*,  
Secretary to Government of Scinde.

(True copy.)

(signed) *E. J. Brown*  
Secretary to Government of Scinde.



## CORRESPONDENCE RELATIVE TO

(No. 195 of 1834.)

From the Collector and Magistrate of Kurrachee to the Secretary to Government of Scinde  
dated Currachee, 2 December 1843.

Sir,

I HAVE the honour to acknowledge the receipt of your letter, No. 1,193, of the 29th ultimo, and in compliance with your request to forward certified copies of the Sunnuds granted to the Suyuds and Moollahs of Tattah by the ex-Ameer Hoosein Alli, by his father Moor Mahomed, and by the Emperors Shah Jehan and Hummayoon.

I have, &c.

(signed) *H. W. Preedy*, Captain,  
Collector and Magistrate, Kurrachee.

Currachee, Collector's and Magistrate's Office,  
2 December 1843.

(True copy.)

(signed) *E. J. Brown*,  
Secretary to the Government of Scinde.

TRANSLATION of a Sunnud granted by *Humayoon*, Emperor of India, to Syud Shaik  
*Hossein Gillanee*.

I HAVE made an oath, and caused my children to take the same vow, that on my return to India I will give you 2,000 ashruffrees yearly, and they will do the same after my death, and I will also give you a female elephant to ride on.

(True translation.)

Signed and sealed by Humayoon Padshah. (signed) *H. J. Pelly*, Lieut.,  
Persian Interpreter.

(True copy.)

(signed) *E. J. Brown*,  
Secretary to Government of Scinde.

TRANSLATION of a Sunnud granted by *Shah Jhan Padshah* to Syud *Abdool Luteef*, and  
Syud *Abdool Mujeed*.

SEVENTY kurwars of grain, formerly given to the above Syuds at Sewhan, is now, agreeably to their own request, to be given to them and their heirs at Tatta. The Kardars and people in authority are ordered to comply with this Sunnud without taking any perquisite of any kind.

Sealed and signed by Shah Jhan.

(True translation.)

(signed) *H. J. Pelly*, Lieut., Persian Interpreter.

(True copy.)

(signed) *E. J. Brown*,  
Secretary to Government of Scinde.

TRANSLATION of a Sunnud granted by *Meer Noor Mahomed* to the Syuds of *Tatta*.

THE Syuds, &c. of Tatta having petitioned that they be allowed to receive their salaries, season wages, annual wages, and daily payments according to the usual custom, I hereby order you, Kurdars, Ijardars, and people in authority to grant them the same without any delay or hesitation.

(True translation.)

27 Jumadoolsanee 1255. (signed) *H. J. Pelly*, Lieut.,  
Persian Interpreter.

(True copy.)

(signed) *E. J. Brown*,  
Secretary to Government of Scinde.

TRANSLATION of a Sunnud granted by *Meer Hossein Allee* to the Syuds, Moollah, &c. of *Tatta*.

LET it be known to the Ijaradars and people in authority at Tatta, that the Syuds, Kazees, Moollas, &c. having made a petition that they be allowed to receive their pensions according to the Purwannahs granted to them by former princes, I hereby order you so to do, taking a receipt from them and debiting my account with the same.

(True translation.)

18 Shawul 1257.

(signed) *H. J. Pelly*, Lieut.,  
Persian Interpreter.

(True copy.)

(signed) *E. J. Brown*,  
Secretary to Government of Scinde.

(No. 162 of 1844.)

From *F. Currie*, Esq., Secretary to the Government of India with the Governor-general, to Captain *E. J. Brown*, Secretary to the Government of Scinde; dated Camp Hingonah, 28 December 1843.

Sir,

I AM directed to acknowledge the receipt of your letter of the 6th instant, No. 148, with its enclosures, regarding a claim preferred by some Syuds and other residents at Tattah for a continuation of pensions granted to them by the ex-Ameers and others.

Rev. Dept.

2. In reply, I am directed by the Governor-general to observe that the amount of these pensions appears to be excessive and their object injurious; and before passing any orders regarding them his Lordship would wish to be informed whether any of them have been paid since our conquest.

I have, &c.

(signed) *F. Currie*,  
Secretary to the Government of India  
with the Governor-general.

(No. 14 of 1844.)

(No. 183.)

From the Secretary to Government of Scinde, to *F. Currie*, Esq., Secretary to Government of India with the Governor-general; dated Currachee, 15 January 1844.

Sir,

By direction of his Excellency the Governor of Scinde, I have the honour to acknowledge the receipt of your letter, No. 162, of 28th ultimo\*; and in reply, to state, for submission to the Right honourable the Governor-general of India, that since our conquest of Scinde, none of the pensions claimed by the Syuds and others at Tatta have been granted.

I have, &c.

(signed) *E. J. Brown*,  
Secretary to Government of Scinde.

\* Acknowledging receipt of despatch, No. 148, dated 6 December last, relating to a claim preferred by Syuds and other residents at Tatta, for a continuation of pensions granted them by the ex-Ameers and others, and requesting to know if any of these pensions have been paid since the conquest of Scinde by the British.

## Appendix, No. 10.

ENCLOSURES to Paras. 11 &amp; 12, INDIA REVENUE LETTER, 4 July (No. 11) 1844.

EXTRACT from the Proceedings of the Right honourable the Governor-general of India in Council in the Home Department (Revenue), under date the 11th November 1843.

(No. 120.)

(No. 1.)

From *P. Melvill*, Esq., Under Secretary to the Government of India, to *G. D. Drury*, Esq., Chief Secretary to the Government of Fort St. George; dated 11 November 1843.

Sir,

Rev. Dept.

WITH reference to the extract from the Abstract of Proceedings of the Government of Fort St. George, for the 15th August last, given below\*, I am directed by the Governor-general in Council to request that you will, with the permission of the Most honourable the Governor in Council, transmit, for the information of the Government of India, such papers as may be on record connected with the endowment of the Trenomallee Pagoda.

I have, &amp;c.

Fort William,  
11 November 1843.

(signed) *P. Melvill*,  
Under Secretary to the Government of India.

EXTRACT from the Proceedings of the Right honourable the Governor-general of India in Council, in the Home Department (Revenue), under date the 9th March 1844.

(No. 1,303.)

(No. 9.)

From *G. D. Drury*, Esq., Chief Secretary to the Government of Fort St. George, to *F. J. Halliday*, Esq., Officiating Secretary to the Government of India; dated Fort St. George, 12 December 1843.

Sir,

Rev. Dept.

REFERRING to Mr. Secretary Melvill's letter of the 11th ultimo, I am directed by the Most noble the Governor in Council to transmit, as therein requested, all the papers † which have been brought on record to the present date, relating to the endowment of the Trenomallee Pagoda.

I have, &amp;c.

(signed) *G. D. Drury*,  
Chief Secretary.

\* (No. 17.) From Acting Secretary to the Board of Revenue, dated 20 July 1843:

Submitting, with reference to the extract from the Minutes of Consultation, dated 24th ultimo, a letter from the sub-collector in charge of South Arcot, reporting that there have been three instances of persons cutting their tongues within the Trenomally pagoda, and stating that the Board would suggest that the Brahmins and others connected with the institution be warned that in the event of the recurrence of such acts, Government will feel themselves called upon to withhold the payments made to it in endowment.

ORDER.—The suggestion of the Board approved, and the collector desired to be instructed accordingly, with an intimation that the same order should be extended to all pagodas where mutilation of any kind is practised.

† Revenue Consultations:—16 May 1843 (Nos. 17 & 18); 2 June 1843 (Nos. 5 to 7); 15 Aug. 1843 (Nos. 49 & 50); 31 Oct. 1843 (No. 1,221); 12 Dec. 1843 (No. 1,378).

(No. 174.)

(No. 10.)

From *E. C. Lovell*, Esq., Acting Secretary to the Board of Revenue, to the Acting Chief Secretary to the Government ; dated 6 April 1843.

Sir,

Para. 1. WITH reference to para. 4 of my predecessor's letter of 18th February last, I am directed by the Board of Revenue, to forward to you for the information of the Most honourable the Governor in Council, the accompanying communication \* with its enclosure, from the collector of South Arcot, reporting his having completed the transfer for the religious institutions in his district into the hands of native trustees.

2. The only province remaining in which similar arrangements have not been fully carried out is Canara, the proceedings of the Board of Revenue in regard to which were submitted to Government under date 30th March 1843.

(signed) *E. C. Lovell*,  
Acting Secretary.

Revenue Board Office,  
Fort St. George, 6 April 1843.

From *C. H. Hallett*, Esq., Collector of Trenomaly, South Arcot, to *E. C. Lovell*, Esq., Acting Secretary to the Board of Revenue, Fort St. George ; dated 21 March 1843.

Sir.

Para. 1. I HAVE the pleasure to enclose a statement showing that I have at length placed all the pagodas in this district in the hands of native trustees.

2. I can assure your Board that to arrange this has been a work of great difficulty. There are still unsettled a few matters of detail, some of which are alluded to in my previous letters on the subject ; but I do not deem it necessary to burden the present communication with any discussion relative to them.

3. It is sufficient to state that this day I have made over the last pagoda, and that Government control or management of the religious institutions in South Arcot has been entirely withdrawn.

(signed) *C. H. Hallett*,  
Collector.

Trenomaly, South Arcot,  
Collector's Circuit Cutcherry, 21 March 1843.

\* No. 21 in Consultation 30 March 1843.

## CORRESPONDENCE RELATIVE TO

A STATEMENT showing the Names of the Tusdeek Davastanums, and the Names of the Trustees to whom they were made over, under the Orders of Government, in the Southern Division of Arcot and Cuddalore.

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Names of the Trustees to whom the Institution was delivered.	Remarks.
Tindevanur	1	Markanum - -	Bhoomeswarasawmy	1. Amachella Moodelly, Puttahmonegar of Markanum. 2. Sabapuly Moodelly, Puttahmonegar of Markanum. 3. Coomaruppa Moodelly, inhabitant of Markanum.	
	2	Mylum - -	Soobromoneusawmy	1. Palliasawmy, Pundarum of Bommiahpolliem.	
	3	Puntharapooloor -	Audekosavapermaul	1. Moottooveerah Reddy, Moonsiff of Pautharapooloor.	
	4	Ditto - - -	- - Kylasanathaswarasawmy.	2. Rama Redy, Puttamonegar of Pautharapooloor. 3. Tautoo Reddy, of Pautharapooloor.	
	5	Allattoor - -	Valaroyaswamy -	1. Bulcharow, Puttamonegar of Alalloor. 2. Vydelinga Moodelly, ditto of ditto. 3. Jyah Pillay, inhabitant of ditto. 4. Audysashioh, Puttahmonegar and Moonsiff of Nagar villages.	
	6	- - Cusbah Tindevanum.	- - Lutchmenarasommasawmy.	1. Vincataramanachary of Tindevanum. 2. Moottoovencataramah Reddy of Bramadaseem. 3. Vencatakistnah Reddy of Molasoor. 4. Commarappah Reddy of Kelyanoor. 5. Moottoovencatapaty Reddy of Peroomboukum. 6. Ramasawawmy Reddy of Omendoor. 7. Casava Reddy of Saurum. 8. Raugoonada Moodelly of Alleemboolloor. 9. Vencataroya Pillay of Tiadevanum.	
	7	- - Cusbah Tindevanum.	Tintrenaswarasawmy	1. Ramacharry of Tindevanum. 2. Soshiah of Mulagramum. 3. Vurdopundit of Nalmookhl. 4. Moottoovencatarama Reddy of Bromadaseem. 5. Ramasawmy Reddy of Peroombaukum. 6. Vencataramah Reddy of Nageoopy. 7. Moottooeemoruppa Reddy of Collaur. 8. Vurdapillay of Tindevanum. 9. Narraina Reddy of Saurum.	
	8	Kielapaukum -	Aswathaswarasawmy	1. Teroonullore Jyengar, Puttamonegar and Moonsiff of Oolaondymputi. 2. P. Soobaroya Moodelly of Keelapaukum Oolandiyamputi. 3. Moottoovencatapaty Reddy of Cullarampaukum.	
	9	Paroomookul -	Govindurajahpermal	1. Anundarow, Puttamonegar of Nalmookul.	
	10	Ditto - - -	- - Mokeapdeewarasawmy.	2. Rajoonauda Pillay, ditto of Paroomookul.	
	11	Ditto - - -	Sunjeveroyasawmy -	3. Ramoo Moodelly of ditto. 4. Baulakistnama Naik of ditto.	
Vellapoorum	12	Vellapoorum -	Vycoontahpermal -	1. Saumala Jynegar of Vellapoorum.	
	13	Ditto - - -	Sunjeveroyasawmy -	2. Moottya Moodelly of ditto. 3. Sasha Jyer of Rullany.	
	14	Ditto - - -	- - Kylosonadaswarasawmy.	4. Shanmooga Moodelly, Moonsiff of Vellapoorum. 5. Vencataroya Moodelly, Puttamonegar of Vellapoorum. 6. Kistanapa Moodelly <i>alias</i> Appoocooly Moodelly of Vellapoorum.	
	15	Trevamattoor -	- - Auberamaswarasawmy.	1. Moottoobasava Reddy of Salaganoor. 2. Nanaina Reddy, Puttamonegar of Oorattare. 3. Vencatasoobah Moodelly of Vellapoorum.	

A STATEMENT showing the Names of the Tusdeek Davastanams, &c.—*continued.*

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Names of the Trustees to whom the Institution was delivered.	Remarks.
Vellapoorum — <i>continued.</i>	16	Parayovarum -	Natratharakasawmy -	1. Vengoonier Davastanum, Monegar of Parayoverum. 2. Jyahswamy Pillay of Parayoverum. 3. Arnachella Reddy of Toorany. 4. Sundrasacra Reddy of ditto. 5. Yacambara Reddy of ditto.	
	17	Singerygoody -	Stralatchmenarasimmasawmy.	1. Lutchoomeenarraina Reddy, Puttamonegar of Tennul. 2. Vydelinga Reddy, Puttamonegar of Ootaryput. 3. Visoovanauda Reddy, Puttamonegar of Teroopampauh.	
	18	Teroovakaray -	Vurdayaswamy -	1. Menjanamahamony Daseegar of Kilway, Nuttum of Teroovacaerry, residing at Velleannellore.	
	19	Ditto - - -	Chundrasakaraswamy	2. Poorooshatma Reddy, Puttamonegar of Codookoor. 3. Scetarama Reddy, Puttamonegar of Moottooranput.	
	20	Chavoor - -	Rooshabapooreswaraswamy.	1. Nulluppa Naick, Puttamonegar of Chavoor. 2. Narraina Reddy of ditto. 3. Narrainaswamy Moodelly of Congaryput. 4. Pereyatombly Goonden of ditto.	
Bowanagherry	21	Bowanagherry -	Vencatasapermall -	1. Seenevasa Jyengar, Puttamonegar and Moonsiff of Audwaraganuttum. 2. Annahdorry Jyengar of Audwaraganuttum. 3. Jyadhory Jyengar of Moottypullum. 4. Seenevasa Jyengar (Slanvegum).	
	22	Ditto - - -	Vadapooreswaraswamy	1. Aroonacholla Goorookul, Puttamonegar of Tollum. 2. Jyah Goorookul of Tollum. 3. Aryapootra Moodelly.	
	23	Ditto - - -	Sunjeveroyasawmy -	1. Lutchoomeenarrainacharry of Lantapellah.	
	24	Suntapettah -	Ditto - - -		
	25	Vencalampettah -	Vanoogopalaswamy -	1. Sashadry Jyengar Goomastah of Shrotrundar Moortoonjjiah Terroovencala Pillay. 2. Vencatarama Naick, Puttamonegar of Pillapelliem. 3. Vencatachella Naick of Pillapelliem. 4. Ramoo Naick, Puttamonegar of Polliem. 5. Moottoorama Naick, ditto of Tumbypettah. 6. Veerasawmy Jyengar, Curnum of ditto.	
	26	Ditto - - -	Sunjeveroyaswamy -	1. Vengunnacharry, father of Anoomuntacharry.	
	27	Teerlanagherry -	Sevapooryswaraswamy	1. Baulakistnamah Naiker of Teroopapooloor.	
	28	Ditto - - -	Sunjeveyroyaswamy	1. Lutchoomanarraincharry.	
	29	Teagavully -	Teroochokanadaswaraswamy.	1. Baulakistnama Naiker of Teroopapooloor.	
	30	Streemoostum -	Stree Boovarahasawmy	1. Cutchycullyana Rungappa Kalacka Tala Oodiar, Zemindar of Oodiarpolliem.	
Munnargady	31	Ditto - - -	Nietaswarasawmy -	1. Vencataramacharry, Moonsiff of Cullypandy. 2. Soobbier of Streemoostum. 3. Auroomoogapundaram of Vackaramaury. 4. Chedumbara Pillay, Puttamonegar of ditto. 5. Tillyn Pillay of Munnargoody.	
	32	Munnargoody -	Veera Narrainsawmy	1. Ambalavanapillay of Naivassel. 2. Chennapunny Chedumbra Pillay of Munnargoody. 3. Perryapunay Allagapillay of Munnargoody. 4. Mungalum Pillay of ditto. 5. Moolloosawmy Pillay, Moonsiff of ditto.	

## A STATEMENT showing the Names of the Tusdeek Davastanums, &amp;c. —continued.

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Names of the Trustees to whom the Institution was delivered.	Remarks.
Munnargady —continued.	33	Odiargoody -	Annunlaswarasawmy	1. Ambalavana Pillay of Maivasel. 2. Chennapanny Chedrumbra Pillay. 3. Pereyapunny Allagopillay. 4. Mungalum Pillay. 5. Mooroogapillay of Poolloor. 6. Ramasawmy Reddy, Puttamonegar of Oodiargoody.	
Ellevanasore	34	Ellevenasore -	- - Gramaathanathaswarsawmy.	1. Siccandoo Narasingaroyer of Ellevenasore. 2. Vencalarems Naik, Puttamonegar of Eryoor. 3. Ramasawmy Gounden, Puttamonegar of Ellevanasore. 4. Soobaroya of Oomaramungalum. 5. Villyappa Oodian, Puttamonegar of Villyoor.	
	35	Ditto -	Sunjeveroyasawmy -	1. Ramasawmy Odian of Potnului. 2. Chinnadoo Odian, Puttamonegar of ditto. 3. Moottya Odian, ditto of Jeeyamungalum.	
	36	Oolundoor -	Mahaswaraswamy -	1. Ponnoosawmy Nynour, Puttamonegar of Oolundoor. 2. Ramakistna Reddy, Puttamonegar of Summonengoor. 3. Paupoo Reddy, Puttamonegar of Mudyanoor.	
	37	Rooshevanthen -	Arthonareswaraswamy	1. Tendappa Nynaur, Puttamonegar of Seetary. 2. Moolloo Oodian, Puttamonegar of Pundagopandy. 3. Narrainapillay, Moonsiff of Vingalum. 4. Carootta Mauremoolloo Moopen of Rooshenthen.	
	38	Tremananellore -	Vycoontapermal -	1. Moottooluga Reddy of Saullanoor. 2. Juggunnauda Reddy of Teroovananellore 3. Moollyal Naik, Puttamonegar of Manacoopum.	
	39	Ditto -	Keepapooreswaror -	1. Jayunnada Reddy, Puttamonegar of Tremananellore.  2. Moolloolenga Reddy, Moonsiff of Sallanoor. 3. Vencattavurdah Reddy of Caurypud. 4. Sooboo Naik, Puttamonegar of Tadoollacoondoor. 5. Moollya Oodian, Puttamonegar of Teroorena Nellore. 6. Narriana Oodian, Puttamonegar of Malayempul.	
	40	Gramum -	Audecasavapermal -	1. Royd Reddy, Puttamonegar of Gramum. 2. Kistna Jyengar, Puttamonegar of Tenmungalum. 3. Moolloonarraina Reddy, ditto of Cooranoor. 4. Vencattaramah Reddy, Moonsiff of Gramum.	
	41	Ditto -	- - Sevaloganathaswaraswamy.	1. Moottoonarraina Reddy, Puttamonegar of Cooranoor. 2. Royal Reddy, Puttamonegar of Gramum. 3. Cooppa Gounden, ditto of ditto.	
	42	Pareekul -	- - Streelutchoomy Narasimmaswamy.	1. Rumachendra Jyer, Puttamonegar of Paroombauk. 2. Jyahviengar of Pariekul. 3. Vencattachella Gounden of Eroondy. 4. Ramapadiachy of Paroombauk. 5. Cundasawmy Pillay of Eroondy.	
	43	Trenamanellore -	Vurdurajahswamy -	1. Narasirga Jyengar, Puttamonegar of Trenamanellore. 2. Polly Reddy, Puttamonegar of Seroothonoor. 3. Narasah Reddy of ditto. 4. Nullanundah Reddy of Trenamanellore.	

A STATEMENT showing the Names of the Tusdeek Davastanums, &c.—*continued*.

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Names of the Trustees to whom the Institution was delivered.	Remarks.
Ellevanasore — <i>continued</i> .	44	Trenamanellore -	Binlaganaswarasawmy	1. Vencatakistna Reddy, Puttamonegar of Trenamanellore. 2. Vencatagooroova Jyer. 3. Moottoo Reddy, Puttamonegar of Saulamungalum. 4. Seenevasa Naick, Puttamonegar of Maroodoor.	
Trecullore -	45	Trecullore - -	Trevekramaswamy -	1. Manpillay Jyengar <i>alias</i> Vencatacherry of Trecullore.	
	46	Ditto - - -	Sunjeveroyaswamy -	2. Singaparoonial Jyengar, Goomastah of Nymaracharrior.	
	47	Teroovarungum -	Streerunganadaswamy.	1. Vencatalaulah Cherry of Teroovarungum. 2. Condama Naik of Naugalcody.	
	48	Keeloor - -	Veerallaswaraswamy	1. Cooltapa Moodelly, Puttamonegar of Trecullore. 2. Mollya Moodelly. 3. Moottya Oodian, Puttamonegar of Keeloor.	
	49	Jumby - -	Jumboonathaswaraswamy.	1. Soodamany Moodely, Puttamonegar of Jumby. 2. Bole Reddy of Mailandub.	
	50	Teroopaly Pundal	Moddyastonathaswaraswamy.	1. Jyemperoomaul Pillay of Maroor. 2. Ramasawmy Oodian of Sillelingamodum.	
	51	Aragundanellore -	Alloolenadaswaraswamy.	1. Seenevasa Jyengar of Aragundanellore. 2. Ramasawmy Oodian, Puttamonegar of Sillelingamodum.	
	52	Anncoor - -	Ramanathaswaraswamy.	1. Saloo Royen of Armioor.	
	53	Ditto - - -	Vurdarajapermal -	2. Soobaroyen of ditto.	
	54	Woolaganellore -	Arthanadiswaraswamy.	1. Gungadara Nynar Poligar of Cheria Salem. 2. Coopoo Naik of Oolaganellore. 3. Coollapachachy. 4. Soobaroya Pillay, Puttamonegar of Woolaganellore.	
	55	Valembar - -	Audeecasavapermal -	1. Appahcooty Syengar, Puttamonegar of Valembar. 2. Narrain Jyengar of Valembar. 3. Ersapillay, Curnum of ditto. 4. Alapapillay, Puttamoneygar of Lutchyem.	
Cullacoorehy	56	Seroovungoor -	Aupulsagayaswaraswamy.	1. Mooloosawmy Goorookul of Seeroovungoor.	
	57	Ditto - - -	Karywerderajaswamy	2. Aroonachella Pillay, Puttamonegar of Seeroovungoor. 3. Veenyleelah Pillay of Seeroovungoor.	
	58	Salem - - -	Vurdarajaswamy -	1. Gungadra Nuynar Poligar of Salem. 2. Maupillay Nynar <i>alias</i> Teroovunnada Pillay of Namaseveyapoorum.	
	59	Ditto - - -	Gongatharaswaraswamy.	3. Rama Jyen, Puttamonegar's Goomastah of Salem.	
	60	Paundlum - -	Parthasarathypermal	1. Nauchyapillay, Puttamonegar of Paundlum. 2. Vencattachella Pillay of Paundlum. 3. Vencataroya Puttamonegar.	
	61	Varaujarum -	Pasooopatheswaraswamy.	1. Moottoo Oodian, Puttamonegar of Varajarum. 2. Ramasawmy Oodian of Varajarum. 3. Calyleelah Oodian. 4. Maureemooloo Oodian.	
Cuddalore -	62	Trepapooloor -	Paulalaswaraswamy	1. Boulakistnamah Naiker of Trepapooloor.	



A STATEMENT showing the Names of the Tusdeek Davastanums, &c.—*continued.*

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Names of the Trustees to whom the Institution was delivered.	Remarks.
Cuddalore— <i>continued.</i>	63	Trevundepoorum -	Streethavanaegaswamy.	1. Boulakistnama Naiker of Trepapooloor.	
	64	Teroovandacoody -	Vamanapooreswaraswamy.	1. Sadaseva Reddy, Mootadar. 2. Vancalapaty Reddy, Mootadar.	
	65	Cuddalore - -	Visoovanathaswamy -	1. Eresuppa Chellyar.	
Trevundy -	66	Trevady - -	Virattapaswaraswamy	1 Soobaroyar of Seroovalloor.	
	67	Ditto - - -	Stree Runganadaswamy.	2. Senachilla Pillay of Trevandy.	
	68	Ditto - - -	Suranarrainswamy -	1. Narasimmamoorlyacharry of Poongoonum.	
	69	Ditto - - -	Sunjeveroyaswamy -	2. Vencattachella Pillay, son of Cooppeah Pillay.	
	70	Punrotty - -	Sunjeveroyaswamy.		
	71	Poongoonnum -	Sunjeveroyaswamy.		
Trenomalay -	72	Trenomalay - -	Vanoogapalaswamy -	1. Appahsawmy, Moodeliar of Madras.	Wealthy and respectable inhabitants of Madras.
	73	Ditto - - -	Annachellaswaraswamy.	2. Baulasoobaroya, Moodeliar of Madras.	
	74	Ditto - - -	Deergumbah - -	3. Soobaroya, Moodeliar of Madras.	
	75	Ditto - - -	Sunjeveroyaswamy -	4. Singaravaloo, Moodeliar of Madras.	
	76	Ditto - - -	Aucannamalyar	5. Ramasawmy, Moodeliar of Madras.	
	77	Chingum - -	Vanoogopalaswamy -	1. Vencatachella Moodelly, Puttamonegar of Chengum.	
	78	Ditto - - -	Doorgambah - -	2. Sooboo Naik, ditto of Collacoolum.	
	79	Ditto - - -	Verashabapooryswarer.	3. Lutchoomana Oodian, ditto of Coyemput.	
	80	Vellavatum - -	Agastaswaraswamy -	1. Munnuppa Oodian, Puttamonegar of Rajunlongul. 2. Moottoo Naik.	
	81	Ditto - - -	Vierdarajaswamy -	- - - - -	- - For the last twenty years no Poogah was performed.
	82	Poothamungaleem	Authereasavapermal	1. Seenevasa Jyengar, Puttamonegar of Boothamungalum. 2. Vencatakistnunar.	
	83	Ditto - - -	Agasteaswaraswamy	3. Kistnunar. 4. Runga Jyengar.	
	84	Cangie - - -	Caracandaswaraswamy.	1. Baulakistna Reddy, Puttamonegar of Coonjee. 2. Vencatakistna Reddy. 3. Gopaulakistna Reddy.	
	85	Macaloor - -	Streevanoogopalaswamy.	1. Ramachendra Reddy, Puttamonegar of Macalas. 2. Kasava Reddy. 3. Teroomul Reddy.	
	86	Ditto - - -	Kylausanathaswaraswamy.	4. Chennacasava Reddy. 5. Jagananda Reddy. 6. Kistna Reddy. 7. Vencalasoobah Reddy.	
Virdachellum	87	Virdachellum -	Bindoomahadaswamy.	1. Bavah Sah Moottookistna Cutchyroyer Pollegar of Paroor. 2. Polay Maly Pillay, Puttamonegar of Virdachellum.	
	88	Ditto - - -	Virdachellaswaraswamy.	3. Soobaroya Pillay, ditto of Mavaloor. 4. Poorooshottma Reddy, ditto of Sembalumcooroochy.	
	89	Gopoorapoorum -	- - - -	1. Poorooshottma Reddy, Puttamonegar of Sombalumcooroochy. 2. Vencatarama Reddy.	

A STATEMENT showing the Names of the Tusdeek Davastanums, &c.—*continued.*

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Names of the Trustees to whom the Institution was delivered.	Remarks.
Virdachellum — <i>continued.</i>	90	Agarum - -	Cadeendaramaswamy	1. Annamasawmy Paramaisvaravunny Nynar Poligar of Oollungary. 2. Erisicpillay, Puttamonegar of Oollungary. 3. Vencatarama Reddy, Puttamonegar of Cooppanullum. 4. Chumatemby Reddy of Coolapookum. 5. Teroomalay Jyengar, Puttamonegar's Gomastah of Agarum. 6. Coolunday Padiachy, Moonsiff of Agarum.	
	91	Fillagoody - -	Vydenadaswamy -	1. Vydenacanacaroya Pillay, Poligar of Fillagoody.	
	92	Ditto - -	Lootasanapermal -	2. Punchonada Pillay, Puttamonegar of Allamungalum. 3. Soobaroya Pillay, Puttamonegar of Colyoor.	
	93	Vasistapoorum -	Rungunadaswamy -	1. Vydenedacankaroya Pillay, Poligar of Fillagoody. 2. Kistmengar, Puttamonegar of Vasistapoorum. 3. Punchanda Pillay, Puttamonegar of Elamungalum. 4. Soobaroya Pillay.	
	94	Pennadum - -	Paremalamuganadaswamy.	1. Aroonachella Pillay, Moonsiff of Pennadem. 2. Appoo Pillay. 3. Soobaroya Pillay. 4. Moollya Pillay. 5. Valoyada Pillay.	
	95	Ditto - -	Praloyacalaswaraswamy.	6. Chilla Pillay. 7. Saumanada Pillay. 8. Vydenada Pillay. 9. Caroopoo Pillay. 10. Chodumbra Pillay. 11. Soobaroya Pillay.	
	96	Teroovadalory -	Teerlapeeraswaraswamy.	1. Ambalavana Pillay, Puttamonegar of Yaryoor. 2. Tumbah Pillay of Ponnadeem. 3. Vadamalay Pillay, Moonsiff of Teroovadalory. 4. Aroonachella Pillay of Ponnary. 5. Seenavasa Pillay, Puttamonegar of Eroolumput. 5. Soobaroya Pillay of Goodalore.	
	97	Coolhoor - -	Rajnarrainapermal -	1. Ramasawmy Oodian, Puttamonegar of Coolhoor.	
	98	Ditto - -	Swornapooraswaraswamy.	2. Ramasawmy Oodian, Puttamonegar of Carendalacooroochy. 3. Soobaroya Oodian of Coolwar.	

## CORRESPONDENCE RELATIVE TO

A STATEMENT showing the Names of the Tusdeek Davastanums, &c.—*continued*.

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Names of the Trustees to whom the Institution was delivered.	Remarks.
Virdachellum — <i>continued</i> .	99	Podioor - -	Posoopatheswaraswamy.	1. Ramachendra Jyer of Nulloree. 2. Ramasawmy Oodian, Puttamonegar of Sapaukum. 3. Nullanaiga Pundarum, Puttamonegar of Vapoor. 4. Tumboo Naik, Puttamonegar of Madooravully. 5. Ramasawmy Naik, Moonsiff of Poodioor.	
	100	Nulloo - -	Beleavanaswaraswamy.	1. Ramachendra Jyer of Nulloor. 2. Nullanaiga Pundarum of Vapoor. 3. Ramasawmy Oodian, Puttamonegar of Sapookum. 4. Ponnambala Widow, Puttamongear of Noyer. 5. Tawdavaroiya Oodian, Puttamonegar of Viennalore. 6. Sevagnana Oodian, Puttamonegar of Nulloor.	
	101	Seroovankum - -	Runganadaswamy -	1. Ramalinja Reddy, Moonsiff of Seerovanhum. 2. Appoo Pillay, Puttamonegar.	
	102	Ditto - -	Kolaswaraswamy -		
	103	Gengavarum -	Vurdarajaswamy -	1. Narrana Jyen, Puttamonegar of Poorovullore. 2. Vencatakistna Reddy, Puttamonegar of Soullompoudy. 3. Caryvurda Oodian of Chitput.	
	104	Sengavarum - -	Runganadaswamy -	1. Sashadryacharrigar. 2. Coopiah Pillay.	
	105	Auvanyapoorum -	Streelutchnarasemmaswamy.	1. Soobareya Pillay of Poodocolloy. 2. Narraina Oodian, Puttamonegar of Seesamungalum.	
Chilput -	106	Nadoomgoonnum -	Streeramachendraswamy.	1. Annahviengar, Puttamonegar of Enjeemadoo. 2. Venkatahistna Reddy, Puttamonegar of Soullompoudy. 3. Ooryvurda, Oodian of Chailput.	
	107	Ditto - -	Deergachellaswaraswamy.		

Trenomalay, South Arcot, Collector's Circuit Cutcherry, }  
21 March 1848.

(signed) C. H. Hallett, Collector.

(No. 493.)

(No. 18.)

THE Most honourable the Governor in Council sanctions the arrangements at length completed in South Arcot, but observes that the collector and the Board have omitted to place before Government the information which might have shown the grounds upon which the several trustees were appointed by the collector, and the proceedings are not therefore satisfactory to his Lordship in Council. The Board will now supply the information.

(signed) *J. F. Thomas*, Acting Chief Secretary.

Fort St. George, 12 May 1843.

(True copies.)

(signed) *G. D. Drury*, Chief Secretary.

Dy to Consultation, 16 May 1843 (No. 17 A.)

(No. 11.)

To the Right honourable the Governor in Council, Madras.

The humble Petition of *Samarow* Vakeel of the Bramins' Ryots, respectable Inhabitants, Merchants, &c. of the Tookoody of Tendeivanum, in South Arcot.

Enclosure.

THE late Carnatic and Mussulmen rulers continued to perform several charities in the Tusdeek Destamains or Pagodas in the above Talook. The Honourable Company continued to collect the incomes allotted by us for the said Pagodas, and to pay ready cash for the performance of the charities by establishing Tusdeeks. But now the collector of the above zillah has, under the authority of Government, issued orders for the withdrawal of the Circar's interference, and for the nomination of churchwardens, so the Tahsildar of the above Tookedy requires that churchwardens should be nominated. If their nomination takes place, it will be a source of great injury to the treasure and other properties of the Pagodas, and to the convenience of the public, and no other danger is necessary for them. If it is true that the Government have in view the protection of the population, they should cause the affairs to be conducted in the same manner as was hitherto done. On representing to the collector of the zillah on this subject, through the Tahsildar, we obtained no order. We therefore pray, that the Government will issue orders that the affairs should be conducted in the manner as was hitherto done, or if it be deemed inconvenient to issue such orders, the Tahsildar may be directed through the collector not to nominate churchwardens until a reply is obtained for the memorial which the people of all countries propose to address to Her Majesty the Queen of England on this subject.

15 September 1841.

(signed) *Samarow*.

(A true translation.)

(signed) *S. Ranganaicooloo*, Translator.

(A true copy.)

(signed) *G. D. Drury*, Chief Secretary.

Dy to Consultation, 27 June 1843 (No. 5.)

(No. 254.)

(No. 12.)

From *E. C. Lovell*, Esq. Acting Secretary to the Revenue Board, Fort St. George, to the Chief Secretary to Government; dated 25 May 1843.

Enclosure.

Sir,

Para. 1. I AM directed by the Board of Revenue to acknowledge the receipt of an extract from the Minutes of Consultation, under date 12th instant, in which, in reference to the recent arrangements concluded for terminating Government interference with the religious institutions in the district of South Arcot, it is remarked, "that the proceedings under review are not satisfactory, as the collector and Board have omitted to place before Government the information which might have shown the grounds upon which the several trustees have been appointed by the collector. The Board are now called upon to supply the information.

In Cons. 25 May 1843.

2. In reply, I am directed by the Board to remark, that the correspondence noted in the margin, forwarded to Government with Mr. Bourdillon's letter of the 13th February, appeared to contain all the information which could be furnished on the subject in question. In the first of those communications, the collector particularized the different descriptions of pagoda endowments obtaining in this district as divided into Shellarah, Muddaystak, and Tusdeek, and explained the manner in which he proposed to effect the settlement of the two first classes of religious institutions, his views in regard to which met the approval of the Board. In

From Collector of South Arcot,  
No. 10 in Cons. 26 May 1842.  
To ditto, 2 June 1842.  
From ditto, 24 October 1842.  
In Cons. 31 Oct. 1842.  
To ditto, 31 October 1842.

Para. 2. June 2, 1843.

regard to the Tusdeek Pagodas, for which it was necessary to nominate trustees, and which are the institutions more particularly contemplated in the Minutes of Consultation under acknowledgment, Mr. Hallett, in his letter of 24 October 1842, para. 5, writes as follows:—

“ In this district there is a difficulty which probably does not exist in others. I allude to the fact of there being no men of great wealth and influence in South Arcot. There are not the Meerassadars of Tanjore, or the Moollahdars of Chingleput and Salem. The only persons available as trustees are the monegars and superior ryots.”

2. In their reply under date 31 October 1842, the Board, in communicating their final instructions to the collector, advocate the formation of committees “ by the appointment of the heads of the village, with or without the conjunction of one or two principal inhabitants, or of the Curnum,” and add, that “ in general where a valid Meerassy claim to the management of a pagoda existed, the Board preferred the recognition of that claim to any other.”

3. The communications above referred to have all been submitted to Government, and an examination of the statement forwarded with my letter of the 6th ultimo, as exhibiting the parties to whom the management of the Tusdeek Pagodas had been intrusted, will, it is hoped, evince that the selection of trustees has been conducted in strict conformity with the principles laid down in those documents. It will then be observed, that the persons appointed trustees are almost exclusively the Monigars or other village officers, the Jyencar or Acharee Brahmins, or the Reddies or other influential ryots; and that as far as practicable these three classes have been associated in the management. The Board would beg respectfully to direct the attention of Government to column 5 of the Statement already quoted, and to the correspondence referred to in the preceding paras., as, with every wish to afford the most complete information on all details connected with the final settlement of so important a measure, they apprehend that, except in one instance, it is not in their power, nor in that of the local revenue authorities, to furnish more ample explanation than has been already submitted to Government.

4. The exception above alluded to is that of the principal temple at Trenomallee, whose trustees are merely described as being wealthy and respectable inhabitants of Madras. Considering the amount of endowment and the establishment annexed to this Pagoda, and its celebrity as a place of pilgrimage, it would have been desirable that more explicit information had been given as to the circumstances under which the present trustees have been appointed. Several petitions, remonstrating against the proceedings of the collector, in the case of this institution, have been received by the Board; and Mr. Hallett has been requested, in reporting on them, to particularize the character and claims of the present nominees, and the causes which have induced him to commit the administration of the Pagoda to their charge. On receipt of his report it shall be communicated to the Most noble the Governor in Council without delay.

Revenue Board Office,  
Fort St. George, 25 May 1843.

(signed) E. C. Lovell,  
Acting Secretary.

(True copies.)  
(signed) G. D. Drury, Chief Secretary.

(No. 32.)

(No. 13.)

From C. H. Hallett, Esq. Collector of Chellumbrun, South Arcot, to the Secretary to the Board of Revenue, Fort St. George; dated 10 May 1842.

Enclosure.

Sir,

Para. 1. WITH reference to their proceedings of 10th and 24th of June 1841, I have the honour to address the Board on the subject of the withdrawal of all interference by the collector in the management of the religious institutions in this district, and the placing them entirely under the control of those professing the same faith.

2. There are in South Arcot three descriptions of pagoda revenues:

1st. Chellara, or Maniem lands, within the village, for the support of small Pagodas belonging to the community.

2d. Muddayasta, or Maniem lands, situated anywhere, of somewhat greater extent, for the support of Pagodas of a large size and more general resort.

3d. Tusdeek, or Great Pagoda lands; and fees which have been assumed on a fixed money allowance in lieu.

3. The first, Chellara, are completely under the management of the Monigars and village community. They consist of Enam lands, &c. yielding, if fully cultivated, Rs. 37,911. 10. 5. per annum, and it may be estimated that they actually produced about 20,000 rupees.

4. The second, Muddayasta, are nominally subject to a supervision by the Tahsildar to ascertain if the expenditure has generally been made for the purposes intended; but in reality they have been, almost equally with the Chellara, independent of all Circar interference. They consist of Enam lands, &c., yielding rupees 27,432. 10. per annum, if fully cultivated, and may be actually estimated to produce about 19,000 rupees.

5. With

5. With a strict order that both these classes of property be interfered with in no way by any Circar officer, they may be left as they are, and the result will be exactly what is desired, without giving offence or injury to any one by change.

6. There remains, then, to be considered only the third, or Great Pagoda land revenues and fees, for which a fixed money allowance has been given; and it is in respect to this class that difficulties in effecting the proposed measure spring up in every direction.

7. In the years 1806 to 1808 these revenues were estimated by the then principal collector, Mr. Ravenshaw, who appears to have gone most carefully and fully into the subject, thus:

To Board, 24 Jan. 1806.  
From Board, 24 July 1806.  
To Board, 20 Aug. 1808.  
From Board, 8 Sept. 1808.

	Cous.	a.	Pags.	f.	c.
Poonjee land resumed - - - -	4,033	9	5,654	14	53 $\frac{1}{2}$
Nunjee land resumed - - - -	1,203	14	3,914	39	44
Tolocal land resumed - - - -	28	-	185	6	2
Sosumtrum or fees resumed - - - -	-	-	13,508	35	41
Soonah dayem - ditto - - - -	-	-	793	21	39
Fees, &c. receivable from Sholreem and Dehaub, Enam villages	1,272	-	32	9	
			25,329	14	28
Sayer Mogamary resumed - - - -	-	-	2,502	10	9
Total - - Pags.	27,831	24	31		

And sanction was given for pagodas 27,857, as annual compensation. This amount was declared by Mr. Ravenshaw to be most liberal, and he evidently then contemplated either to lessen it or to make it embrace a greater number of Pagodas. Under this acknowledgment I conclude it was that it afterwards became reduced in 1809 and 1810 to pagodas 18,648. 38. 5. or rupees 65,270. 15. 5. as explained in the Statement noted in the margin.

See Statement, No. 1 in (A.) sent to Board 6 Oct. 1834.

8. There is a vast deal of correspondence connected with the discussion of this subject during these years, but a reference to it can scarcely be of any service to the Board; it is sufficient to state that the amount was then defined, and has so remained and been annually paid ever since.

9. There has also been additional sanction for three sums, amounting to rupees 3,349. 8. making a total of rupees 68,620. 7. 8. Out of this I can disburse to parties in charge of Chuttrums and Musjeds rupees 1,458. 6.: this will leave an annual balance of rupees 67,162. 1. 5. to relieve which from all control by Government officers, is to be considered.

10. This sum of rupees 67,162. 1. 5. is disbursed to 107 institutions. I have been able to induce persons to come forward as trustees for 52, which will receive rupees 81,087. 7. 6. There remain 55, the share of which is rupees 36,074. 9. 11.; of these I can at present persuade no parties at all to undertake the management. *Vide Statement.*

11. The property possessed by these 107 Pagodas may be roughly estimated as follows:—

	Rupees.
In gold - - - - -	58,978
Silver - - - - -	62,569
Other metals - - - - -	33,499
Cloths - - - - -	17,887
Cars, &c. - - - - -	40,887
Total - - - - -	213,800

which of course should remain untouched.

12. The accumulation of Russer\* funds in deposit on account of them is rupees 24,163. 7. 3. Of this amount rupees 7,206. 3. 3. exclusively belongs to three, and should be reserved in their favour. There is no record of the extent in amount received from each institution; neither has the expenditure from these funds been apportioned to the several institutions. I would suggest that as each is made over to the appointed trustees, a share of the accumulation fund be paid according to the Tusdick of the Pagoda.

\* Savings from difference in price of grain, occasional non-performance of ceremonies, &c. &c.

13. It is not to be disguised that the determination of the Government to withdraw their control over these institutions has been felt by the people to be a most severe blow. Mamool or custom, the *lex non scripta*, especially respected by natives, guarantees them, they assert, in the protection, which they now learn they are to lose, to be replaced by separate administration of people who they well know will not, in the performance of their duty, be actuated by pure and disinterested motives. Still, therefore, hoping that the present system will stand, and, more immediately in connexion with their individual interests, unable to spare time from their agricultural pursuits, uncertain of their abilities to act satisfactorily, dreading the constant disputes which they foresee must arise, both among themselves and the courts of law, and superstitiously fearful that any, even acci-

dental, mismanagement might visit themselves or posterity with misfortune, the majority of the respectable natives I find have very decided objections to undertaking the charge.

14. The law of England, without thought whether their professed creed be Christian or infidel, never refuses protection to the weak and incompetent in the management of their property, with the enlightened view of preventing present injury and future injustice to heirs. I therefore conceive that in each instance power over any part of these funds should be bestowed only if well deserved; and where this is not attainable the control must remain with the collector, pending his endeavours to induce others to come forward to relieve him. To throw down large property and accumulated funds to be taken up by no appointed officers, cannot be defensible on any religious principle, while it would surely prove subversive of quiet, and productive of confusion and discord.

15. Much, moreover, will depend on the result of the management of those first undertaken by trustees; if favorable, the difficulties will vanish. On this account, I intend to be very careful in transferring, and may possibly reject some of the names now submitted; but under all circumstances I am of opinion that it must be a work of time.

16. It has been suggested that when given up once completely to the trustees, any disputes arising in connexion with the Pagoda will be referred to the civil courts as if that were not interference. I am quite at a loss to understand how religious zeal can possibly define that when a dispute between two dancing girls as to the right of succession, or any other question, after much expense, tedious delay, and exasperation, encouraged by the Vakeels, is decided in its constituted court by its appointed judge, the Government interferes less than when the collector summarily, during his circuit, and upon the evidence produced, upon the spot settles the same point. Under this impression I am most decided in recommending that where the institution with its revenues is transferred on appeal against any act of the trustees, or against the succession to a vacancy amongst them, if preferred within a reasonable stated period, shall be made to the collector rather than to the civil court, to be summarily and finally disposed of by him. I think this important as regards the interest of the people, and likely to create satisfaction for the injury which they generally feel the change inflicts, as well as to encourage many to come forward, who are at present unwilling to execute the office.

17. It will be remarked that the sanctioned annual payment was in lieu of lands and various fees; the latter cannot be re-established, the former could only be traced by a careful scrutiny of the several Pymash accounts. But I need not point out to experienced revenue officers the difficulties and uncertain result of such a proceeding, and will therefore only add, that restoration of the identical lands and fees, enjoyed previous to 1806, is impossible.

18. It should be observed that in this communication, I have purposely confined myself to the general question. There are many matters of detail and trifling difference which can best be left to my discretion in carrying out the proposed measure. I will repeat here, in conclusion, that, consistently with the object in view, I am of opinion the lands, &c. at present enjoyed by the small Pagodas, may remain untouched; that the money allowance, in preference to a restoration of their old rights, must be continued to the large Pagodas; that whenever the management of any Pagoda is transferred to trustees, appeal against any act should lie to the collector for summary and final disposal, rather than to the judge for decision in the court; and that a total abrupt withdrawal of control by the Circar officers is impracticable, without offending justice and good government, while all that is wished for may be obtained gradually, and in the course of time.

(signed) *C. Hughes Hallett*, Collector.

Chillumbrum, South Arcot,  
Collector's Circuit Cutcherry, 10 May 1842.

(True copies.)

(signed) *G. D. Drury*, Chief Secretary.

(No. 82.)

(No. 14.)

From *C. Hughes Hallett*, Esq., Collector of Cuddalore, to the Secretary to the Board of Revenue, Fort St. George; dated 24 October 1842.

Sir,

Para. 1. I HAVE the honour to acknowledge your letter of 6th instant, which generally leads me to infer that I have been misunderstood by the Board to such an extent, that I am forced, in justice to myself, to make a few observations.

2. I beg most respectfully to represent to the Board, that I never was authorized to carry my proposals into effect. I have always regretted that I did not receive such authority, for from the first the Board will read from my letters, that I looked to progressive success, from the result of first making over some of the Pagodas. In the letter which I received,  
dated

dated 2d June, para. 6, it is stated, respecting the Tusdeek Pagodas, "It will be necessary before making over charge to these individuals, that they should execute an agreement," &c. "A form of agreement to the above effect, is already before Government," &c. In no part of the letter was there anything to guide me to the supposition that it conveyed such authority as that now mentioned; but if there had been any ambiguity even elsewhere, the positive expression, that "before making over" a certain agreement, the form of which was at the very time under consideration of Government, was to be entered into, left me no option; if I made over the Pagodas without the execution of the agreements, I was failing to do what the Board declare to be "necessary," and the only meaning that could be attached to the wording was, that I should wait for the receipt of the form of document. I was so anxious speedily to make over some, particularly as I was going on circuit through my district, that I would gladly have interpreted the Board's directions to such effect, which I trust will be allowed was impossible.

3. I have carefully read over both my letters on the subject; I can most positively assert that I never intended to write one word on the general question, and I am now quite unable to find any part in either that can be construed into such a discussion. The whole contents consisted of a statement of the objections urged by the people, and of my suggestions for overcoming those objections, with an opinion that time only was required to carry out the proposed arrangement satisfactorily to all parties.

4. From the very first I have clearly made it known all over the district, that nothing could change the determination of Government for the entire withdrawal of all interference; but the Board expect too much when they call upon me not to allow the people in any degree to retain a "hope that the present system will stand." All has been done that can be done, to convince them that such hope is utterly vain, but with the system still prevailing in the adjoining zillahs, and with their own strong wishes on the subject, it is impossible to annihilate all hope, which under the most adverse circumstances will live.

5. In this district there is a difficulty, which probably does not exist in others, where the separation has been completed; I allude to the fact of there being no men of great wealth and influence in South Arcot. There are not the Murassudurs of Tanjore or other Mootabdaras of Chingleput and Salem. The only persons available as trustees are the Monegars and superior Ryots.

6. The Pagoda at Chellumbrum is managed in a manner which does not afford satisfaction to any class of the community, except a body of Bramins who live in idleness and are fed entirely from the funds. Even were such a management thought worthy by the Government of intimation elsewhere, I am sure that to hold it up as an example, instead of encouraging, would be the means of dissuading the people from becoming trustees.

7. In the latter part of the letter to which I have the honour of replying, one or two modes of proceeding are pointed out as likely, if adopted, to tend towards the accomplishment of the proposed end. I had hoped that my previous assurance, that my best exertions had been afforded, would have satisfied the Board that such first steps could not have been overlooked.

8. I will conclude by repeating that I will spare no trouble in the matter, for neither the Board nor the Court can more earnestly wish that the matter were finally disposed of than myself.

Cuddalore, Collector's Cutcherry,  
24 October 1842.

(signed) *C. Hughes Hallett*, Collector.

(True copies.)

(signed) *G. D. Drury*, Chief Secretary.



(No. 15 A.) - - - - -

STATEMENT showing the Amount payable from the Treasury for the Support of the Tusdiek  
have and have not been appointed

Names of the Talooks.	No. of the Pagodas.	VILLAGES.	Names of the Pagodas.	Amount of Tusdiek in lieu of the Resumed Revenue, &c.	Value of Property remaining in each Davastanum.
		PAGODAS for which Trustees or Administrators have been selected :			
Tindevanum	1	Murkanum -	Bhoomeswarasawmy	709 13 6	1,490 8 11
	2	Mylum - -	Soobramaneaswamy -	906 11 9	5,755 4 5
	3	Pauthara - -	Audekasanapermal -	567 5 6	597 15 3
	4	Poolloor - -	Kylasanathaswarasawmy.		
	5	Alalloor - -	Valaroyaswamy -	553 3 6	568 14 1
	6	Paroomoo -	Govindarajapermall	465 3 3	324 14 9
	7	Rull - -	Mookeahdieswarasawmy.		
Villoopooram	8	Ditto - -	Seryeeverayasamy -	924 10 -	1,455 3 6
	9	Villoopooram -	Vycoontaparmal -		
	10	Ditto - -	Sunjeveroyasawmy -		
	11	Ditto - -	Kylasunadaswarasawmy.		
	12	Trevamettoor -	Auberaswaswamy -	961 1 3	4,192 1 9
	13	Parujavarum -	Natrothorakasawmy -	492 14 6	1,154 1 7
	14	Teroovakary -	Vurdayasawmy -	914 1 6	1,104 8 8
	15	Ditto - -	Chendrasakarasamy		
	16	Chovoor - -	Rooshbapooreswarasawmy.	739 12 -	1,990 6 7
Bhowangherry	17	Bhowangherry -	Vencalasapermaul -	840 3 -	999 9 5
	18	Ditto - -	Vadapooreswarasawmy.		
	19	Ditto - -	Sunjeeveroyasawmy		
	20	Ditto - -	Ditto of Suntapellah	997 1 4	1,852 13 8
	21	Vencatum -	Vanoo Gopaulasamy		
	22	Pellah - -	Sunjeeveroyasamy -	745 4 -	1,659 2 -
	23	Teerlanagany -	Sevapooryswarasamy		
	24	Ditto - -	Sunjeeveroyasamy -		
	25	Teagovelly -	Trechockanadaswarasawmy.	594 8 -	2,614 13 7
	26	Streemooshtum -	Stree Boovarahaswamy	2,890 3 5	16,574 12 7
Munargoody	27	Ditto - -	Nalaswarasamy -	700 8 -	1,117 10 4
	28	Munnargoody -	Veernarrainasamy -	874 11 -	3,158 8 8
	29	Odurgoody -	Anuntaswarasamy -	574 5 -	1,658 3 11
Ellevanasore	30	Elavanasore -	Gromarthanathaswarasawmy.	1,801 2 5	1,614 5 1
	31	Ditto - -	Sunjeeveroyasamy -		

(No. 15 A.)

Davastanums, in lieu of Resumed Revenue, &c. as well as those Davastanums for which Trustees in the Southern Division of Arcot, &c.

NAMES OF THE TRUSTEES SELECTED.	Remarks of the Collector.
<p>-- Eggia Arnachulla Moodelly Puttamonegar, Labaputty Moodely and Amarapa Moodely of the same village. Palliasawny Pendarum of Baminiah Polum in Villapoorem Talook.</p> <p>-- Moodooneerah Reddy Moonsiff, Ranny Reddy Puttahmonegar and Narrain Reddy, brother of Tahle Reddy, of the same village. -- Butcha Row Puttahmonigar, Archaca Ramasamy Jyengar of the same village, and Coopparayer Vencataroyer Puttamonegar of Nager village.</p> <p>-- Ragoonatha Pillay Puttahmonigar, Ramoo Moodely Vencalachella Pillay, of the same village, and Annunda Row, Puttamonegar of Nulmookul. -- Samabengar Vencatroya Moodely Puttahmonigar and Streenmoga Moodely Moonsiff.</p> <p>-- Sabauputty Pundarum of Pareyupullum, Mootia Moodely and Appoocooly Moodely Puttahmonigar.</p> <p>-- Soobramania Nunberan Vencalasooboo Moodely of the same village, Moodoobasavareddy of Salagannoor, and Narrain Reddy of Verallor. -- Vingooreen Pagoda, Monigar Jyasawmy Pillay, Arnachellareddy of Torovey Chendrasacara Reddy and Acumbra Reddy.</p> <p>-- Menjanaramooney Daskarif Kuhooy Mullum of Teroovakary, residing at Vellearrellore, Rungah Pillay Curnum of Tervakarray, and Comarapa Counden Moneyum Gomastah.</p> <p>-- Narrain Reddy Puttahmonegar, Nellabanda Naik and Jyaloo Naick of the same village.</p> <p>-- Streenevasiengar of Medavarachanullum, Aunathoviengar Jyathoreigar of Moollepullum Archaca Strenevasiengar.</p> <p>Slannekay Ariachella Goorkul, Jya Goorkul, Mereapootea Moodely. Lutchme Narranacherry.</p> <p>-- Shashadry Jyengar Goomastah of Moodoovesen, Terrovengada Pillay Shatrumdar Auyeeropum Vencalarama Naik of Pellapolliem, Vencatta Chella Naik Puttahmonegar and Moonsiff, of the same village, Ramasamy Naik of Polliem, Moodoorama Naik of Tambepellah, Verasamy Curnum of Vencattapellah for Bistnoo Pagoda, Vencataramana Charry for Sunjeverayasamy.</p> <p>Balakistnama Naik, great merchant of Trepapooloor, Lelmy Narraina Cherry. Balakistnama Naik of Trepapooloor.</p> <p>-- Tatalacherry of Malepooleargoody, Saloo Madova Cherry Pullahmoniem and Moonsiff of Streenooshlem, and Chembra Pillay Pullamoniem of Vaekaramary.</p> <p>-- Vencalaramana Charry Moonsiff of Kulleepaudy Soobeen Mahajanum of the Stremmoostum, and Hemogapundarum of Vuekarysmamy.</p> <p>-- Jyanien of Cusbah Naulloo Chumpapumy, Chellumba Pillay Mungalumpillay and Mootoosamy Pillay Pullahmoniem of the same village.</p> <p>-- Naulloo Ambalavanapillay of Myvasel, Naultoo Pareapanna Duloyapillay Moorogapillay Pullahmoniem of Pooltoor, Naultoo Sabauputty Pillay of Vologum, Keelpandy and Ramascowmy Reddy Pullamoniem of Odiargoody.</p> <p>-- China Toomby Nynar Puttamonegar of Kaneyar, Villia Odian of Comaramungalum Chennadoo Odian of Purunthel, Narasinga Row of Chickadoo.</p> <p>-- Rumasamy Odion of Parunthel, Coollama Naik Pullahmoniem of Coonjarum, and Jyaloo Naik Puttahmoniygar of Nillarasoor.</p>	

## STATEMENT showing the Amount payable from the Treasury

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Amount of Tusediek in lieu of the Resumed Revenue, &c.	Value of Property remaining in each Davastanum.
Ellevanasore —continued.	32	Oolandoor -	Moshaswarasamy -	853 10 -	1,683 7 6
	33	Rooshevunther -	Arthanareswarasamy	712 3 -	1,036 11 -
	34	Trevana Nellore	Vycoontvasa Permaul	1,091 2 6	2,755 5 4
	35	- Ditto - -	Krepapooreswarer -		
	36	Gramum - -	Audecasavarapermaul	894 5 -	935 9 6
	37	Ditto - -	--Sevalakanathaswarasawmy.		
	38	Parekull - -	-- Stree Lutchy Nar-semmasomy.	567 4 -	2,859 6 9
	39	Trevamanellore	Burdarazasamy -	882 2 6	794 6 1
	40	Ditto - -	Buctojaswarasamy -		
	41	Trecullore -	Trevakramasamy -	2,352 9 7	5,260 5 3
	42	Ditto - -	Sunjeveroyasamy -		
	43	Teroovarungum	Streerunganadasamy	1,443 15 1	2,827 11 11
	44	Woljanellore -	Arthanadeswarasamy	708 8 -	297 15 9
	45	Valumlour -	Audecasavapermaul -	546 12 11	403 14 1
Cullacoorchy	46	Seeroovenjoor -	- - Aupulsahayaswarasamy.	603 13 -	449 14 3
	47	Ditto - -	KaryVurdarazaswamy		
	48	Salem - -	Vardarajaswamy -	826 15 -	572 7 2
	49	Ditto - -	- - Gungatheraswarassamy.		
Cuddalore -	50	Trepapooloor -	Pantataswaraswamy -	1,414 - -	9,612 3 9
	51	Trevendapoorum	Streethavanaigaswamy	835 11 -	11,310 3 2
	52	Teroovandacoolly	- - Vamanapooreswarasamy.	161 18 -	671 14 11
TOTAL - -				31,087 7 6	91,355 7 2
PAGODAS for which Trustees have not yet been selected or persons willing to accept the offer made to them:					
Tindevanum	53	- - -	- - Cusbah Tindevanum Lutchmonarsimmaswamy.	754 2 6	1,085 1 6
	54	- - -	- Cusbah Tindevanum Tinleenaswaraswamy	737 16 -	1,276 9 2

for the support of Tusdiek Davastanums, &c.—*continued*.

NAMES OF THE TRUSTEES SELECTED.	Remarks of the Collector.
<p>Ramoosamy Nynar, Puttahmonigar of the village.</p> <p>-- Taduppa Nynar, Puttahmonigar of Nattanundul Seethooy, and Poondy Moolloo Oodian, Puttamoniem of Mundagapaudy in Cullacoorchy Talook, Narrain Pillay Moonsiff of Vengalum, Paulamoopen of Shooshevundum, and Palamoopen of the same village.</p> <p>- - Moodoolinga Reddy of Sulbeemnoor, Moolteal Naik, Puttamoniem of Manacoopum, Moolloosamy, Puttahmonigar of Yalumthoray.</p> <p>- - Vencalaourdah Reddy, P. M. of Trevana Nellore, Mooltoo Oodian Narrain Oodian, P. M. of Malayempull, Sooba Naik, P. M. of Tadoolahcondoor.</p> <p>- - Royaloo Reddy, P. M. of Grumum, Vencatasoobeah, P. M. of Kunnarumput, Kishengar, Moonsiff of Gramum.</p> <p>- - Moodoo Narrain Reddy, Puttahmonigar of Coorahnoor, Coopoo Coondah, Puttahmonigar of Gramum, and Valah Pillay of Gramum, &amp;c.</p> <p>- - Ramasawmy Nynar, P. de Purekul, Ramasamy Naik, P. M. of the village, and Ramachendriah, P. M. of Paroomboukum.</p> <p>- - Ramanuppa Naik, P. M. of Arunthadoor, Nursah Reddy, P. M. of Seratumoor, Paupey Naik, P. M. of Anavaury.</p> <p>- - Erresuppah Nynary, <i>alias</i> Lutchmona Nynary Petty Reddy, P. M. Seerullanoor, and Jugunatha Reddy, P. M. of Trevanellor.</p> <p>- - Veeraragava, Charry to the Pagoda Priest, a minor, about 16 years old, is said by the Tahsildar to be willing to receive charge of this Pagoda, but no other.</p> <p>- - Vincalatala, Charry of the Priest of the Pagoda, is said by the Tahsildar to be willing to receive charge of this Pagoda, but no other.</p> <p>- - Soobaroya Pillay, P. M. of Wollaganellor, Sennalumbywachary, Goomastah of Comatchyremmal, Polygary and Pitchandy, Moopun, &amp;c. of the same village.</p> <p>- - Ramasamy Jyengar Jyengar, Narraina Jyengar Tremalaiengar, and Erroosapillay of the same village.</p> <p>Moodoosomy Goorkul Arnachella Pillay, P. M., and Vanalecteeh Pillay, P. M. of the same village.</p> <p>- - Gengaltuera Nynary Poligar Rumien, his Gomastah, Teeromureth Pillay, son of Puncabala Pillay, Ramalingien Curnum, and Vencatchella Pillay.</p> <p>Balakistnama Naik of Trepapooloor.</p> <p>- - Ditto - - - Ditto.</p> <p>Sathaseva Reddy and Vencalaputty Reddy.</p> <p>- - - - - S. O. - - - - -</p>	<p>S. O.</p>

## STATEMENT showing the Amount payable from the Treasury

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Amount of Tusediek in lieu of the Resumed Revenue, &c.	Value of Property remaining in each Davastanum.
Tindevanum —continued.	55	- - -	-- Kulapookumaswa- thasaraswamy.	420 2 6	527 1 3
Trevandy -	56	- - -	-- Trevandy Strernu- gandaswamy - -	1,266 8 6	2,338 6 -
	57	- - -	-- Ditto Veeroollah- saswerer.	1,295 12 -	2,042 11 6
	58	- - -	- - Ditto Saranar- rainswamy.	687 10 -	197 7 -
	59	- - -	- - Ditto Sunjeve- royaswamy.	91 5 -	- - -
	60	- - -	- - Punrooly Sunje- veroyaswamy.	22 2 9	- - -
	61	- - -	- - - Poongoonnum Sunjeveroyaswamy.	22 2 9	- - -
Villoopoorum	62	- - -	- - - Sengeryojoody Streelutchnarasimsamy	1,086 4 -	3,969 13 11
Trinamalay -	63	- - -	- - Trenamallie Van- gojupalswamy.	5,925 12 6	65,559 15 10
	64	- - -	- - Ditto Arnachella- swaraswamy.		
	65	- - -	Ditto Durgumbuh -		
	66	- - -	Sunjeveroyaswamy -		
	67	- - -	Arnanmalaswerer -	632 1 -	1,516 - 9
	68	- - -	- - Cheerjum Vanoo- gopaulswamy.		
	69	- - -	Ditto Doorgumbah		
	70	- - -	- - Ditto Vereshaba- pooryswarer.		
	71	- - -	- - Vellavalum Agas- taswaraswamy.	1,668 14 -	1,221 3 4
	72	- - -	- - Ditto Vurdaraja- swamy.		
	73	- - -	- - Bathoomungalum Authecaswarahper- nal.	785 2 -	1,222 3 4
	74	- - -	- - Ditto Agestea- swaraswamy.		
	75	- - -	- - Caujee Caracanda- swaraswamy.	351 13 6	257 5 -
	76	- - -	- - Macaloor Stre- vanoogopaulswamy.	509 12 -	623 15 6
	77	- - -	- - Ditto Kylasana- thaswaraswamy.		
Verdachellum	78	- - -	- - - Verdachellum Bindoomadovaswara- swamy.	2,338 4 1	14,598 1 6
	79	- - -	- - Ditto Verdachella- swaraswamy.		
	80	- - -	- - Gopoorapooram Gopooraswaraswamy.	1,227 12 -	2,007 9 11
	81	- - -	- - Agarum Codunda- ramaswamy.	496 14 -	214 9 3
	82	- - -	- - Tillagoody Vyden- adaswamy.	2,568 7 -	4,420 7 8
	83	- - -	- - Ditto Sookhasa- napermal.		
	84	- - -	- - - Vasistapoorum Runganadaswamy.	976 8 -	1,024 13 4
	85	- - -	- - Pennadum Per- mala Rungunada- swamy.		
	86	- - -	- - Ditto Pruloya- calaswaraswamy.	839 6 -	791 15 1
	87	- - -	- - - Teeroovadalory Teerlapooraswara- swamy.		



## CORRESPONDENCE RELATIVE TO

STATEMENT showing the Amount payable from the Treasury

Names of the Talooks.	No. of Pagodas.	VILLAGES.	Names of the Pagodas.	Amount of Tussiek in lieu of the Resumed Revenue, &c.	Value of Property remaining in each Davastanum.
Verdachellum —continued	88	- - -	-- Coohoor Rajanar- rainapermal.	574 14 -	195 6 2
	89	- - -	- - Ditto Swarna- pooreswaraswamy.		
	90	- - -	- - Podioor Pasoo- pathyswaraswamy.	878 7 -	326 12 1
	91	- - -	- - Nulloor Belvoo- unaswaraswamy.	1,814 10 4	2,434 3 3
	92	- - -	- - - Seroovankum Runganadaswamy.	624 7 -	465 10 8
	93	- - -	- - Ditto Tholaswara- swamy.		
Trecullore -	94	- - -	- - Keeloor Veeratta- swaraswamy.	899 12 6	1,585 4 7
	95	- - -	- - Jumby Jumboo- nathaswaraswamy.	648 10 -	586 15 9
	96	- - -	- - Teroopalay Pun- dalchaddegaslanatha- swaraswamy.	561 4 -	350 7 9
	97	- - -	- - Aragundanellore Alloollinadaswara- swamy.	620 6 -	346 14 4
	98	- - -	- - Annioor Ramna- daswaraswamy.	834 7 -	1,444 2 9
	99	- - -	- - Ditto Vurdaroza Permal.		
Cullacoorchy	100	- - -	- - Paundalum Par- thasarathypermaul.	539 11 -	422 3 11
	101	- - -	- - Vararyarum Pa- soopathaswaraswamy.	923 4 -	551 - 7
Chitput -	102	- - -	- - Gengavarum Vur- darazaswamy.	736 9 8	380 - 5
	103	- - -	- - Sungavarum Run- ganadaswamy.	420 2 -	1,510 7 9
	104	- - -	- - Auvanyapooram Stree Lutchmenara Sunmaswamy.	632 2 -	2,383 9 6
	105	- - -	- - Nadoomgoomun Streramachendra- swamy.	442 12 4	4,226 3 1
	106	- - -	- - Ditto Deerga- chellaswaraswamy.		
Cuddalore -	107	- - -	- - Cuddalore Visva- nathaswamy.	318 8 -	329 7 10
TOTAL - - -				36,074 9 4	122,444 5 3
GRAND TOTAL - -				67,162 1 5	213,799 12 5
A B S T R A C T.					
Amount of 52 Institutions for which Trustees have been appointed - - - - -				31,087 7 6	91,355 9 2
Amount of 55 Institutions for which Trustees have not been appointed - - - - -				36,074 9 11	122,444 5 3
				67,162 1 5	213,799 12 5

Chellumbrum, South Arcot,  
Collector's Circuit Cutcherry, 10 May 1842.

for the support of Tusdiek Davastanums, &c.—*continued.*

NAMES OF THE TRUSTEES SELECTED.	Remarks of the Collector.
<div>- - - - - S. O. - - - - -</div>	S. O.

(Errors excepted.)(signed) H. Hughes Hallett, Collector.

(True copies.)(signed) G. D. Drury, Chief Secretary.



(No. 268.)

(No. 16.)

Enclosure.

From *E. C. Lovell*, Esq. Acting Secretary to the Revenue Board, Fort St. George, to the Chief Secretary to Government; dated 5 June 1843.

Sir,

29 May, in Cons.  
5 June 1843.

Para. 1. IN reference to the concluding para. of my letter of 25th ultimo, I am directed by the Board of Revenue to forward to you for submission to the Most noble the Governor in Council the accompanying communication, with its enclosures, from the collector of South Arcot, furnishing explanation as to the considerations which have actuated him in the selection of the trustees to whom the principal temple at Ternamallee has recently been confided.

2. From this it will be perceived, that the individuals to whom (in the absence of all qualified parties resident in the district willing to undertake the trust) the collector has been induced to commit the administration of the affairs of the Teroonamallee Pagodas are five native gentlemen of Madras, benefactors to the institution, connected in commercial concerns with South Arcot, and whose nomination is generally acceptable to the inhabitants of the district. The persons who have petitioned against these appointments are the Goorookuls and other servants attached to the Pagoda, who may have a Meerasee right to certain offices within its walls, but are not men of such property or consideration as would entitle them to the superintendence of the institution, and whose nomination as trustees has been deprecated by all the more respectable portion of the community. Mr. Hallett's arrangements appear to the Board to have been concerted with judgment, and carried out with much firmness and moderation.

Revenue Board Office, Fort St. George,  
5 June 1843.

(signed) *E. C. Lovell*,  
Acting Secretary.

From *C. H. Hallett*, Esq. Collector of South Arcot, to *E. C. Lovell*, Esq. Acting Secretary to the Board of Revenue, Fort St. George; dated 29 May 1843.

Sir,

Para. 1. I HAVE the honour, in reply to your letters of the 10th ultimo, 15th and 25th instant, enclosing several petitions, to report fully upon the subject, because the quantity of petitions\* presented, their bold and extraordinary misrepresentations and falsehoods, together with the number of fictitious signatures annexed, must have induced the Board to attach an importance to the subject which it by no means really deserves.

2. It will be in the Board's recollection, that in my communications relative to carrying out the orders of Government to withdraw all Arkar control in the management of the Pagodas, I pointed out many difficulties which delayed success, but in the case of no single Pagoda did I meet with such entire and consistent opposition as in that of Trenomally.

3. My records show how I pressed the Talook authorities to persuade inhabitants to come forward. I urgently endeavoured to make the Vattovalum Polygar, the only man in the neighbourhood of any rank, to undertake the trust. At the time of the Jummahbundy in 1261, I personally called upon the people to nominate their own trustees. This I repeated a few months later, in September 1842, when in the Talook; and finally when a vast number of people, at the time of the feast in November, were assembled from Madras and the neighbouring districts, I invited parties to come forward that I might accomplish what was desired.

4. All this was in vain.

5. Just at this time one of the Goorookuls or priests of the Pagoda, receiving a monthly salary of 10 rupees, proposed to undertake the management. I replied, that if agreeable to others who would associate themselves with him in the trust, I would consent, and I must remark, that nothing but the exigency of the case would have induced me to accept his proposal, even with the security of respectable joint trustees, as I was acquainted with this man, and knew him to be of a quarrelsome and turbulent disposition.

6. However, he would not agree to any divided power, and the Ryots of the Talook petitioned Government on no account to allow the charge to be given to the Goorookuls, which two circumstances at once stopped all chance of arrangement with him.

7. The Trinomally is one of the five great Siva Pagodas of Southern India. It is situated in a very poor country, and is unsupported by the inhabitants of the neighbourhood, or even of the district. For these reasons, although I had hitherto, as in other cases, hoped to appoint trustees who resided somewhere near, now that I failed, I naturally, as a last resource, looked to parties who, while not in the immediate locality, took an interest in the institution.

8. I found that the inhabitants of Madras gave great support to the Pagoda generally.  
That

\* Returned.

No. 479  
480  
489  
490  
491  
496  
497  
569  
670  
717  
750  
769  
785  
817  
} of 1843.

Government,  
No. 1,485 of 1841,  
No. 1,649 of 1841.

That Soobaroya Moodely (one of the new trustees) gave annually rupees 319. 6. for the performance of ceremonies.

That Poonamollee Putchyappa Moodely gave rupees 159. 11. annually.

That Putchyappa's estate gave 365 rupees annually.

That of 78 Choultries built in Trenomally town, 31 were by the liberality of Madras people.

That of the jewels and property of the Pagoda, 30,000 rupees' worth out of the whole 70,000 rupees value, were presented by natives of Madras; and that the car, estimated at a cost of rupees 35,000, was also a gift from the same quarter.

9. It was with great satisfaction, therefore, to myself, and with positive justice to those who had such concern in the Pagoda, that after one or two communications, I found the following gentlemen, residents of Madras, willing to undertake the office of trustees:—

Soobaroya Moodely, above-mentioned, as a patron.

Appasawmy Moodely, who has extensive indigo transactions in South Arcot.

Ramasawmy Moodely, son of J. Chunnatombay Moodely.

Baula Soobaroya Moodely of Tollicut.

Singaravaloo Moodely of Connoor, son of Mooroguppa Moodely.

10. I accordingly requested them to meet me at Trenomally in March, that they might personally receive from me the charge on my arrival. I found four present, and in several conversations I ascertained that in every respect they were most desirous of conducting the affairs of the institution to the satisfaction of the people, agreeably to which they signed the document, a translation of which I enclose.

(A.)

11. As the Tahsildar reported to me that the Sonadree Goorookul would not give up the key of the room, that the jewels might be examined in the presence of the new trustees, I sent for him, and explained the impropriety of his conduct; assured him that no change whatever was contemplated in the internal management; that all officers would remain in the same situations; and that he was exposing himself to punishment by his contumacy. He was obstinate, however, and not wishing to hurry him into error, I dismissed him, stating that he must present himself the next morning and give up the key.

12. He accordingly came, declared that the Pagoda was his own, and that he had a Meerassy right to it, as well as its property; I explained that the same rights which he had always enjoyed would be continued to him, as well as to all others connected with the Pagoda; that he was but a servant, for the performance of certain duties and ceremonies, which would be maintained without change, and warned him of the consequence of his misconduct. Though evidently well aware that he had nothing to complain of, from a dogged and premeditated determination to oppose the orders of Government and the collector, he refused to deliver the key, and this too not in a manner which called for interpretation, as asserted, but in plain language, and by gestures also, which he repeated, and which no one at all acquainted with Tamil could misunderstand.

13. I was forced to punish him. As he was being led away in charge of peons, about 200 or 250 persons, including nearly all the Pagoda servants, 120 in number, and headed by the other Goorookuls, rushed forward, and using violent language and menaces, immediately before my face rescued him from custody and carried him off. A great number of ryots were close by, for the purpose of receiving puttahs. They flocked towards the mob at the moment, but almost instantly left it. The mob was then increased by some inhabitants of the town, who being usually employed in furnishing supplies to the Pagoda, had been persuaded by the Goorookuls that they would lose their trade; and after attacking the houses of the trustees and the Sheristadar, carried the rescued prisoner, with flags and tom-toms, into the Pagoda.

14. Having availed myself of my own powers of punishment, as regarded a considerable number of those who assisted with the mob, I found it imperative on me to proceed with more rigour towards a few of the ringleaders, and with this view issued warrants for the apprehension of five persons who had been most conspicuous, and also evidently had acted on a preconcerted plan. They, together with the rescued prisoner, secreted themselves in the sacred part of the Pagoda; and with the exception of one, there they are now acting on their own free will, and interfered with in no degree by me, as I have given strict orders that nothing be done towards their apprehension that can possibly offend the feelings of the natives, which might have been the consequence of taking them forcibly (which of course I could easily have done at any time) from their place of refuge.

15. By their behaviour alone is the Poojah stopped; and on this point I will only refer to the translation of a notice published by me on occasion of the non-performance of the usual ceremonies on the first feast day after the disturbance.

(B.)

16. Previous to finally making over charge to the five trustees, I proposed to all the people assembled to associate five of themselves, if they had such wish, with the other five. None of the respectable Monegars desired to do this; a few troublesome characters proposed that 20 of themselves should take the trust; and on my asking why they had never come forward earlier, they admitted that they all "purposely kept back, in the hope to force the Circar into continuing the control."

17. I then finally appointed the five individuals above named; and with reference more particularly to your letter of the 25th instant, in addition to what is explained above, I

would state that they are of the same faith ; that they are respectable and wealthy ; that I have every reason to conclude that they are capable of doing justice, as trustees, to a Pagoda which, besides being greatly supported by Madras inhabitants, and neighbouring districts, is yearly endowed by the Rajah of Mysore, Chundoo Lall of Hyderabad, and by our Government ; while, on the other hand, the instigators of the several petitions are worth nothing, are badly disposed (I may instance their encouraging poor wretches to cut out their tongues in the Pagoda), and by their criminal conduct have brought upon themselves the almost certain punishment of long imprisonment, under Regulation III. of 1831. I may as well also remind the Board that I selected them only when the whole of South Arcot refused the trust.

18. The Board cannot fail to observe that there are in reality but few signatures to the petitions ; the same handwriting appears over and over again ; indeed, they emanate only from a small party attached to the Goorookuls, and misled by their absurd assertions that I have stopped the Poojah ; that I am starving them ; have appointed Christians as trustees, &c. &c. In proof of this I may mention, that on my proceeding immediately from Trenomally into the adjoining Talook of Chilput, all the respectable inhabitants, verbally, and in writing, begged of me on no account to employ the Goorookuls, but to maintain those I had appointed. This was repeated in still stronger terms in the next Talook, Tindevanum ; and in Villapoorum it would have been the same, but that illness suddenly compelled me to hurry away. The Cuddalore Talook has also presented a like request.

19. I cannot conclude without adverting to the malicious attacks in these petitions upon my head Sheristadar ; neither he nor I was previously acquainted with the trustees. As was his duty, holding so high and confidential a situation, he hesitated not to express an opinion that they were more worthy of the trust than the Goorookuls, who, as well as all others in South Arcot, had purposely kept back. But it is idle to attribute bad motives for such an opinion, when it went only to bestow a charge refused rather than coveted by all. I shall only add, that in this, as in all other matters, I have found this officer actuated by a wish to benefit the people generally.

No. 101 of 1843.

20. I regret having been forced to go into this affair at such length, for in itself it is undeserving of it. The case is precisely similar to that of the Virdachillum Pagoda, respecting which a petition was presented to the Board, and endorsed under date 20 March 1843.

21. The Goorookuls are still secreted in the Pagoda, with some of their friends, who keep them supplied with provisions. Probably the people of the district will soon compel them to turn out ; my interference is and will be only exerted for the preservation of the peace, and for the legal prosecution of the offenders upon the fitting opportunity.

I have, &c.

(signed) C. H. Hallett,  
Collector.

South Arcot, Collector's Cutcherry,  
Cuddalore, 29 May 1843.

(A.)

TRANSLATION of a Document executed by *Appasawmy Moodely, Balasooabarayah Moodely, Singaravaloo Moodely, and Soobbaraya Moodely*, Trustees of Aroonachellusuarah Sawmy Pagoda, at Teronamallie, under date 21 March 1843.

IN conformity with the permission of the collector of South Arcot, we hereby acknowledge to have received from Vencata Row, the Tahsildar of Trenomallie, the charge of the Aroonachelleeswarah Sawmy Pagoda, in the Cusbah. We will continue all the expenses of the said Pagoda for the daily offerings, weekly, monthly, and annual festivals, according to the Tusedic fixed by the Circar, and continued up to this date, and keep an account truly of receipts and expenses thereof.

We will not, of our own accord, create any new ceremony, or discontinue those at present existing, or infringe the rights established heretofore for the Pagoda in question.

The savings of Cusser shall, at the close of every Fusly, or at any time, be appropriated to the repairs of the pagoda vehicles, purchase of jewels, cloths, &c., on due consideration of their expediency, as may be required by the principal parties attached to the Pagoda. As trustees of the Pagoda at Trenomallie, we will, to the best of our ability, control its management according to the Maumool, in the manner most conducive to the wishes of the people, for whose satisfaction its preservation is desirable.

Witnesses :

(signed) *Vencalasooabaredy*, of Voon-  
namalla Palem.  
*Moodookistnana Naik*, of  
Collacoliem.  
*Pareyapillay*, Curnum of  
Kusbah Trenomallie.  
*Vasientharoyah Chelly*, of  
Cusbah.

(signed) *Appasawmy Moodely*.  
*Ramasawmy Moodely*.  
*T. Balasooobbeerayen*.  
*Singaravaloo*.

On the consent of  
*Soobaroya Moodely*.  
*T. Ramasawmy Moodely*.

(signed) *Thalagherry Jyen*, Peishwa.

(True translation.)

(signed) C. H. Hallett, Collector.

(B.)

TRANSLATION of a Notice issued by the Collector of South Arcot, dated Teroonamalie, 17 March 1843.

NOTICE is hereby given that the collector would on no account whatever interfere with the usual ceremonies and customs of the Pagoda; if any hindrance is offered to their performance, it is by the misconduct of some of the pagoda servants and others, who, by opposition to the orders of Government and to the collector (who is only anxious in enforcing those orders to do what is best for the whole people,) are subjecting themselves to severe punishment.

(True translation.)

(signed) C. H. Hallett, Collector.

(True copies.)

G. D. Drury, Chief Secretary.

(No. 682.—Revenue Department.)

(No. 17.)

EXTRACT from the MINUTES of CONSULTATION, under date 24 June 1843.

Enclosure.

READ the following letter from the acting secretary to the Board of Revenue.

[Here enter 25 May and 5 June 1843, Nos. 254 and 268.]

1. The Most noble the Governor in Council concurs with the Board of Revenue in opinion that under all the circumstances the collector of South Arcot has exercised a sound discretion in placing the Pagoda of Trenomally in charge of the trustees named by him.

2. His Lordship in Council is desirous of receiving from the Board an explanation of the statement in para. 17 of the collector's letter, in which he observes, that the Pagoda "is yearly endowed by the Rajah of Mysore, Chundoo Lall, of Hyderabad, and by our Government," although it appears from the sentence following, that poor wretches "are not unfrequently instigated to cut out their tongues in the Pagoda." His Lordship in Council would consider it highly objectionable and at variance with the orders of the Honourable Court to give special support to an institution where practices are encouraged opposed to the rules of common humanity, and he requests the Board will report the nature and circumstances of the endowment referred to.

(signed) G. D. Drury, Chief Secretary.

(A true extract.)

(signed) G. D. Drury, Chief Secretary.

(No. 366.)

(No. 18.)

From E. C. Lovell, Esq., Acting Secretary to the Revenue Board, Fort St. George, to the Chief Secretary to Government; dated 20 July 1843.

Sir,

Para. 1. IN reference to the correspondence noted below,\* I am directed by the Board of Revenue to forward for submission to the Most noble the Governor in Council, the accompanying communication, with its enclosure, from the sub-collector in charge of South Arcot, supplying the information called for in extract from Minutes of Consultation of the 24th ultimo.†

2. From this letter there would appear to have been three instances of persons cutting their tongues within the Trenamullee Pagodas, one referrible to feelings of superstition, the other two emanating, in all probability, from a desire to throw odium on the measures proposed to be adopted by the collector for the transfer of the temple to native trustees. It does not appear whether either of the parties was seriously injured. As remarked by Mr. White,

\* From the Collector, 29 May, in Consultation, 5 June 1843; to Government, 5 June 1843; from Government, 24 in Consultation, 29 June 1843; 17 in Consultation, 20 July 1843.

† In Consultation, 29 June 1843.

White, existing Regulations do not authorize the infliction of such punishment as would deter persons from attempting the outrage in question. The Board would, however, suggest, that it might be desirable to enlist the interests of the Bramins and others connected with the Pagoda against the practice, by warning them, that in the event of the recurrence of such acts, Government will feel themselves called upon to withhold the payment now made in endowment of an institution whose votaries are instigated or encouraged in the commission of such atrocities.

Revenue Board Office, Fort St. George,  
20 July 1843.

(signed) *E. C. Lovell,*  
Acting Secretary.

From *D. White*, Esq., Sub-Collector in charge of South Arcot, to *E. C. Lovell*, Esq., Acting Secretary to the Board of Revenue, Fort St. George; dated Cuddalore, 17 July 1843.

Sir,

Para. 1. IN reference to the information regarding certain endowments made to the Pagoda at Trinomally, called for in your letter, I have the honour to forward you an extract, from a statement exhibiting the revenues of each Pagoda in this district, which was submitted to the Board by Mr. Ravenshaw, the then collector, under date 20th August 1808. By this it will be observed, that the income of the Pagoda, composed of Enam land, Mera, Soduntrum, Vartama, Soornadayem, &c., which has been resumed by Government, originally amounted to pagodas 1,918. 26. 9, or rupees 6,715. 6., but was subsequently, under the opinion of the Board, reduced to rupees 5,938. 8. 6., which has been annually paid by the Government from the year 1809-10 up to the present period.

2. The sum of pagodas 701 per annum was, under a deed of gift executed by his Highness the Rajah of Mysore, and dated 2d June, paid to the Pagoda of Trinomally, from the year 1816 to August 1831, when the amount was, in common with other similar grants to religious institutions, reduced to rupees 435, which has been annually paid up to the present time, at the Commissioner's office at Bangalore, to a person deputed from the Pagoda establishment.

3. The endowment of Chundoo Lall, of Hyderabad, is 14 annas per diem, or rupees 319. 6. per annum. This sum appears to have been paid by Chundoo Lall only for a few years. He further employs an agent at Trinomally to superintend the appropriation of this grant.

4. The act of a man cutting his tongue in the compound of the Pagoda was first brought to Mr. Hallett's notice in September 1842, when he was at Trinomally. It appears that Mr. Hallett sent for the Goorookuls of the Pagoda and warned them that if they allowed such acts to be committed, their conduct would be brought to the notice of Government. He also ordered that the offender, who was a native of Tanjore, should be sent away from the village, and issued a proclamation prohibiting the practice.

5. In March 1843, when Mr. Hallett was again at Trinomally, the offence was again committed by an inhabitant of the Tricullore Talook, who, upon being questioned, indicated by signs that he could not speak, and the act was voluntary. He was accordingly sentenced by the magistrate to pay a fine of 5 rupees, in default of which he was committed to the gaol for 15 days.

6. Another occurrence of the same atrocity was brought before the magistracy in April last. The offender, a native of Trinomally Talook, pleaded that he had committed the act in the hope that he would thereby be relieved from sickness; and he was also committed to the gaol for 10 days, in default of payment of a fine of 5 rupees.

7. It is probable that two of the instances of the commission of this atrocity above mentioned were committed for the purpose of throwing odium upon the collector and his arrangements regarding the Pagoda, and to support the petitions to Government and the Board against his measures; for I am informed that the inhabitants of Trinomally have repeatedly urged in their petitions, that, in consequence of Mr. Hallett's orders, some people had already mutilated themselves by cutting their tongues, and many more intended to do the same.

8. It appears that this atrocious act is occasionally committed by natives under a vow, or a superstitious feeling of its efficiency in curing dangerous diseases; and although it is opposed to rules of common humanity, and ought to be suppressed by law, I am not aware of any Regulation by which a punishment can be inflicted sufficiently severe to effect this object.

South Arcot, Collector's Cutcherry,  
Cuddalore, 17 July 1845.

(signed) *D. White,*  
Sub-Collector in Charge.

(No. 1.)

EXTRACT from a Detailed Statement (No. 2) showing the Revenue of each Great PAGODA in the Southern Division of Arcot, forwarded to the Board of Revenue by Mr. *Ravenshaw*, the late Collector, under date 20 August 1808.

Names of the Pagodas.	Number of Pagodas.	ENAM LAND, &c.			From Customs or Somyer Magama.	Total, including Sayer.	Waste Land, &c.
		Land Enam, Meera, Sodamtrum, Soornadayem, Suwa, Maumem, and Shrotnum.					
		Cultivated Land.	Waste.	Total.			
Trinomalay Division:		Pags. f. c.	Pags. f. c.	Pags. f. c.	Pags. f. c.	Pags. f. c.	Pags. f. c.
Cusba Trinomalay.							
Sreevanoogapala Sawmy	—	—	—	—	—	—	—
Ditto, ditto, Arnachel- shwarasamy	5	1,228 40 58	340 19 42	1,569 15 20	75 - -	1,644 15 2	340 19 42
Ditto, ditto, Durgamba	—	—	—	—	—	—	—
Ditto, ditto, Sunjeeveroy- swamy	—	—	—	—	—	—	—
Ditto, ditto, Ammalay	—	—	—	—	—	—	—

Deduct, Somyer Magamah abolished.	Total.	Remainder resumed and included in Jumma.	Amount Payable by Circar.			Number of Pagodas.	Names of the Pagodas.
			Amount according to the Tusdeek.	Amount payable to Jain Pagoda Muzdeed; Repairs of Pagoda, and Expenses of Vearpooja.	Total.		
Pags. f. c.	Pags. f. c.	Pags. f. c.	Pags. f. c.	Pags. f. c.	Pags. f. c.		
—	—	—	—	—	—	—	Trinomalay Division:
75 — —	415 19 42	1,228 40 58	1,918 26 9	— — —	1,918 26 9	5	Cusba Trinomalay.
—	—	—	—	—	—	—	Sreevanoogapala Sawmy.
—	—	—	—	—	—	—	Ditto, ditto, Arnachel shwarasamy.
—	—	—	—	—	—	—	Ditto, ditto, Durgamba.
—	—	—	—	—	—	—	Ditto, ditto, Sunjeeveroy- swamy.
—	—	—	—	—	—	—	Ditto, ditto, Amalay.

(True extract.)

(signed) *D. White*, Sub-Collector in Charge.

(No. 875.)

THE Most noble the Governor in Council approves the suggestion of the Board of Revenue submitted in the foregoing letter, and desires that the collector of South Arcot may be instructed accordingly. His Lordship in Council is of opinion, that the same orders should be extended to all Pagodas where mutilation of any kind is practised.

Fort St. George, 12 August 1843.

(signed) *J. F. Thomas*,  
Secretary to Government.

(True copies.)

(signed) *G. D. Drury*, Chief Secretary

(No. 19.)

(No. 496.)

From *E. C. Lovell*, Esq., Acting Secretary to the Board of Revenue, to the Chief Secretary to Government; dated 16 October 1843. Enclosure.

Sir,

Para 1. I AM directed by the Board of Revenue to request you will submit for the consideration of the Most noble the Governor in Council, the accompanying correspondence which has recently taken place with the acting collector of South Arcot relative to the measures which have been adopted for placing the trustees selected for the future management of the Pagodas Trenomalie, in possession of those institutions.

From Acting Collector, South Arcot, 29 May, in Consultations, 5 June 1843.

2. The previous correspondence on this subject which was submitted to Government with my letter of the 5th June last, will have shown Government the difficulties which the collector had to contend with in finding duly qualified persons who were willing to undertake the future management of the institutions, and the vexatious opposition which was made by the Goorookuls or Priests to any arrangements which should in any way interfere with them.

3. At the same date of the letter above referred to the Goorookuls, who had been most contumacious in their conduct towards the collector, were carried in triumph to the Pagoda by the assembled mob, and were there secreted in the most sacred part of the temple, refusing to deliver up any portion of the jewels or paraphernalia to the newly-appointed trustees.

4. The collector abstained from doing what might be considered distasteful to the feelings of the people, had he pursued the Goorookuls into the interior of the Pagoda, and ejected them by force; trusting that forbearance would have brought about what he was unwilling to effect by force.

No. 3 and 4 in Collector's letter, 10 October.

5. The result, however, has been a failure, and the Goorookuls apparently have taken advantage of the suspense to excite a feeling in their favour. It will be seen from the enclosures to the acting collector's letter, that endeavours are making to get up a party in the adjoining Talook of Tricalore to support the Goorookuls, and that unless some decisive measures are taken effectually to settle the question before the approaching festival at Trenomalee, serious consequences may be the result.

6. It appears that the festival cannot be duly celebrated without the jewels or paraphernalia, which are in possession of the Goorookuls, who, unless compelled, will not permit the Pagoda to be opened; and as Government have concurred in recognising the appointment of the trustees named by the collector, it seems necessary that the Goorookuls should be at once peremptorily called upon to give themselves up, and make over the jewels to the newly-appointed trustees, in the presence of some responsible European officer, or that measures should be adopted by the deputation of persons of caste to proceed into the Pagoda and seize the persons of the Goorookuls, and then require them to make over the jewels to the new trustees; or on the Goorookuls' refusal, to cause the trustees to take possession of them, in presence of witnesses.

7. The Board solicit the early instructions of the Most noble the Governor in Council, as the festival at Trenomalee commences on the 27th proximo; and it is desirable that whatever is resolved upon should be done before that event, or before the crowd, who usually attend on that occasion, begin to assemble.

Revenue Board Office, Fort St. George,  
16 October 1843.

(signed) E. C. Lovell,  
Acting Secretary.

(No. 1,154.—Revenue Department.)

(No. 20.)

Enclosure.

EXTRACT from the MINUTES OF CONSULTATION, under date 27 October 1843.

READ the following letter from the Acting Secretary to the Board of Revenue.

[Here enter 16 October 1843 (No. 496).]

Para. 1. THE Most noble the Governor in Council observes, that in sanctioning, under date the 12th May last, the arrangements proposed by the collector of South Arcot, Mr. Hallett, for the management of the Trenomalee Pagoda, the object of the Government was to give the charge to parties in whose hands the interests of the institution would be secured, and who it was assumed, would be acceptable to the great body of the worshippers.

Letter, 10 October 1843, para. 3.

2. The papers now submitted lead the Government to question whether this latter object has been attained; and whilst his Lordship in Council concurs in the opinion of the acting collector and magistrate, that his duty is at present confined to the preservation of the peace, he considers it desirable that the Board should call upon that officer to report without delay whether the Goorookuls, who have possession of the jewels and the paraphernalia, are *bonâ fide* supported in their pretensions by the popular voice. In this case it may be desirable to make a subsidiary arrangement, which shall constitute them additional or co-trustees with the persons already in office.

3. Should this not be found practicable, there is nothing to prevent the trustees from proceeding against the Goorookuls by due course of law, suing them for the property wrongfully withheld.

4. His Lordship in Council is of opinion that the Board of Revenue might have consulted with advantage the present trustees as to the course they would propose to adopt in reference to the matter of their petitions; and they will now instruct the acting collector to pursue that course which may lead to some amicable arrangement.

5. His Lordship in Council cannot approve of the measures followed by the magistracy in this case. The peons, who were directed to serve the warrant, should have been long ago withdrawn, or the authority of the magistrate fully and promptly enforced. The course taken

taken could have but one effect, to encourage resistance, and to foster, if not create, the excitement now subsisting.

(A true extract.)

(signed) *J. F. Thomas*, Secretary to Government.

(A true copy.)

(signed) *G. D. Drury*, Chief Secretary.

(No. 571.)

(No. 21.)

From *E. C. Lovell*, Esq., Acting Secretary to Government of Fort St. George, to the Chief Secretary to Government; dated 23 November 1843. Enclosure.

Sir,

REFERRING to the Minutes of Consultation, under date 27th ultimo, I have the honour, under instructions from the Board of Revenue, to forward, for the purpose of being laid before the Most noble the Governor in Council, the accompanying letter and enclosure this day received from the acting collector of South Arcot. 20 in Consultation,  
23 November 1843.

(signed) *E. C. Lovell*,  
Acting Secretary.

Revenue Board Office, Fort St. George,  
23 November 1843.

From *W. D. Davis*, Esq., Acting Collector of South Arcot, to *E. C. Lovell*, Esq., Acting Secretary to the Board of Revenue, Fort St. George; dated 20 November 1843.

Para. 1. WITH reference to your letter, I have the honour to state, for the information of the Board, that the warrant which was issued against the Goorookuls of Trenomallay Pagodas has been withdrawn. 28 October 1843.

2. Immediately after the receipt of your letter under reply, I invited the trustees, by an endorsement on a petition they forwarded to me, to attend at my cutcherry, in order that I may be enabled to effect some amicable settlement between them and the Goorookuls, as suggested by Government in the 2d and 4th paras. of the Minutes of Consultation. They have not only failed to obey the above requisition, but from their letter, copy of which is herewith forwarded, they do not seem to evince the smallest anxiety regarding the affairs, nor do I think they will ever be able to discharge the functions entrusted to them with any satisfaction to the people, who seem at present opposed to their interference with the affairs of the Pagoda. 27 October 1843.  
11 October 1843.

3. The Goorookuls and some of the inhabitants of the Trenomallay district, appeared before me, and expressed great unwillingness to the arrangement already made. From the conversation I had with them, and from what I have heard since my arrival here, the popular voice seems to be in favour of the Goorookuls. Besides which, it appears that the jewels and other property belonging to the Pagoda have been entrusted to the charge of these persons from time immemorial, and that none but themselves are acquainted with the subterraneous recesses within the Pagoda where the most valuable ornaments are secured.

4. I detained the Goorookuls and the people for about a week, expecting the arrival of the trustees; but on the receipt of their letter already quoted, the people have taken their leave, stating that as no measures have been adopted by the trustees towards the celebration of the approaching grand annual festival, they were willing to perform it at their own cost, pending the decision of Government. I have, therefore, issued orders to the police officer of the place, prohibiting his interference with its celebration, directing him at the same time, to exert his utmost to preserve the peace.

(signed) *W. D. Davis*, Acting Collector.

South Arcot, Collector's Cutcherry  
Cuddalore, 20 November 1843.

(No. 1.)

From *M. Soobaroyem Moodelly*, *T. Balasobarey*, and *C. Appasawmy Moodelly*, Esquires, to *W. D. Davis*, Esq., Acting Collector and Magistrate of South Arcot, &c.; dated 11 November 1843.

Sir,

IN reply to your indorsement on our letter to you, dated the 30th ultimo, we beg to request that you will have the goodness to communicate to us in writing the arrangement you intend to make with regard to Teroonamallee Pagoda, of which we are appointed trustees. *T. Ramasawmy Moodelly* and *C. Singaravaloore Moodelly* being absent to Bangalore, we are afraid that our personal attendance before you would be of very little consequence, before we could know your sentiments on the subject of our two letters to you dated the 21st September and 21st October last.

(signed) *M. Soobaroyem Moodelly*,  
*T. Balasobarey*,  
*C. Appasawmy Moodelly*.

Madras, 11 November 1843.



## CORRESPONDENCE RELATIVE TO

(No. 1,297.)

As it appears from the communication which accompanied the foregoing letter, that the arrangement for the management of the Trenomally Pagoda has entirely failed, the Board of Revenue will be pleased to take an early opportunity of submitting a new arrangement for the future trust of this institution.

(signed) *G. D. Drury*, Chief Secretary.

Fort St. George, 12 December 1843.

(True copies.)

(signed) *G. D. Drury*, Chief Secretary.

(No. 22)

(No. 110.)

Enclosure.

From *W. D. Davis*, Esq., Acting Collector of South Arcot, to *E. C. Lovell*, Esq., Acting Secretary to the Board of Revenue, Fort St. George; dated 20 November 1843.

Sir,

28 October 1843. Para. 1. With reference to your letter, I have the honour to state, for the information of the Board, that the warrant which was issued against the Goorookuls of Trenomally Pagoda, has been withdrawn.

27 October 1843. 2. Immediately after the receipt of your letter under reply, I invited the trustees, by an indorsement on a petition they forwarded to me, to attend at my cutcherry, in order that I may be enabled to effect some amicable settlement between them and the Goorookuls, as suggested by Government in the 2d and 4th paras. of the Minutes of Consultation. They have not only failed to obey the above requisition, but from their letter, copy of which is herewith forwarded, they do not seem to evince the smallest anxiety regarding the Pagoda affairs, nor do I think they will ever be able to discharge the functions entrusted to them with any satisfaction to the people, who seem at present opposed to their interference with the affairs of the Pagoda.

11 November 1843.

3. The Goorookuls and some of the inhabitants of the Trenomally district, appeared before me, and expressed great unwillingness to the arrangement already made. From the conversation I had with them, and from what I have heard since my arrival here, the popular voice seems to be in favour of the Goorookuls. Besides which, it appears that the jewels and other property belonging to the Pagoda have been entrusted to the charge of these persons from time immemorial, and that none but themselves are acquainted with the subterraneous recesses within the Pagoda, where the most valuable ornaments are secured.

4. I detained the Goorookuls and the people for about a week, expecting the arrival of the trustees; but on the receipt of their letter, already quoted, the people have taken their leave, stating, that as no measures have been adopted by the trustees towards the celebration of the approaching grand annual festival, they were willing to perform it at their own cost, pending the decision of Government. I have, therefore, issued orders to the police officer of the place, prohibiting his interference with its celebration, directing him at the same time to exert his utmost to preserve the peace.

(signed) *W. D. Davis*,  
Acting Collector.

South Arcot, Collector's Cutcherry,  
Cuddalore, 20 November 1843.

From *M. Soobaroyem Moodelly*, *T. Balasobary*, and *C. Appawsawmy Moodelly*, to *W. D. Davis*, Esq., Acting Collector and Magistrate of South Arcot, &c.; dated 11 November 1843.

Sir,

In reply to your indorsement on our letter to you, dated the 30th ultimo, we beg to request that you will have the goodness to communicate to us in writing the arrangement you intend to make with regard to Teroonamullee Pagoda, of which we are appointed trustees. *T. Ramasawmy Moodelly* and *C. Singaravaloo Moodelly* being absent to Bangalore, we are afraid that our personal attendance before you would be of very little consequence before we could know your sentiments on the subject of our two letters to you, dated the 21st September and 21st October 1843.

We have, &c.  
(signed) *M. Soobaroyem Moodelly*,  
*T. Balasobary*,  
*C. Appawsawmy Moodelly*.

(True copy.)

(signed) *W. D. Davis*, Acting Collector.

(True copies.)

(signed) *G. D. Drury*, Chief Secretary.

Order.—The foregoing requires no order.

## PART II.

### Juggernaut.

— No. 1. —

(No. 19.)

EXTRACT LEGISLATIVE LETTER from *India*, dated 4 November 1843.

Para. 40. UNDER the instructions received from your Honourable Court, in your despatch (No 17), dated 25th August 1841, orders have been issued for transferring the Suttaees Hazaree Mehal to the Rajah of Khoorda, as superintendent of the Juggernaut temple. The terms on which the transfer was ordered to be made are, that the average proceeds of the mehal, now carried to credit of the Government donation to the temple, shall be deducted therefrom, and that the embankments shall be kept up by Government as heretofore, the expense being borne by the estate. According to the wish of the ryots, pottahs have been ordered to be delivered to them previously to making the transfer.

Leg. Cons. 31 May  
1843, No. 9 to 11.  
Appendix, No. 1.

— No. 2. —

(No. 21.)

EXTRACT LEGISLATIVE LETTER to *India*, dated 4 September 1844.

<p>Letter from, dated 4 November (No. 19.) 1843, (para. 40 and 41) Instructions for the transfer to the Rajah of Khoorda, as superintendent of the temple of Juggernaut, of the Suttaees Hazaree Mehal. (Appendix No. )</p>	}	<p>17. Approved.</p>
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— No. 3. —

(No. 6.)

Legislative Department, 4 April 1843.

OUR GOVERNOR-GENERAL of *India* in COUNCIL.

Para. 1. WE transmit to you ten copies of a publication respecting the present state of the temple of Juggernaut, and the arrangements for withdrawing the interference of Government and its officers with the affairs of that temple, which have been adopted under your authority, and have received our sanction.

Superintendence of  
Native Religious  
Institutions.

2. In the 24th page, we find the following passage:—

“ If we are not to expect the interposition of Government to abolish practices which every humane mind condemns, we are entitled to demand that at least its patronage and support may be withdrawn from the iniquitous system. That patronage and support, notwithstanding the abolition of the pilgrim tax, are still afforded ostensibly and substantially to Juggernaut, in the following instances;—

“ 1st. In the annual payment of 60,000 rupees for the perpetual maintenance of the establishment of the temple, the fees of the pilgrim-hunters, the embellishment of the idol, and the pomp of the festivals.

664.

H 4

“ 2dly. In

"2dly. In permitting the trade of the Purharees or pilgrim-hunters, a class of men whose occupation is to travel over most parts of India, to entice the ignorant and superstitious Hindoos to undertake a pilgrimage which is attended with greater loss of life and innumerable other evils, than any other superstition.

"3dly. In employing the authority of the police to impress the labouring classes in the surrounding country to drag the idol's car at the great festivals."

3. On the first of these three heads we wish to receive information on the following points; viz.

1st. The specific ground on which it was stated in Lord Auckland's minute of the 17th November 1838, "Our promise of the allowance for the support of the temple is distinct and unconditional;" and 2dly, the authority under which the established donation for the support of the temple of Juggernaut, mentioned in Regulation XII. of 1805, section 30, was first granted, or the period during which it may be known to have been received, and its amount. In furnishing this information, you will state whether the assertion in page 40 be correct, that "the lands belonging to the temple ever constituted the only known endowment pertaining to it."

4. On the second head, we desire to be informed whether, (as stated in pages 24, 37, and 40), "the trade of the Purharees or pilgrim-hunters," is sanctioned by the Government. You will be careful that the Government does not, by any act whatever, cause it to be believed that it sanctions or in any way gives countenance to the proceedings of these people.

5. On the third head, you will inform us whether the authority of the police be employed to impress the labouring classes to drag the car at Juggernaut, or at any other temple; and you will understand it to be our express desire, that the authority of the police may, on the contrary, be employed on all occasions in protecting the labouring classes from any such compulsory service.

6. In procuring the information now called for, we desire that, with reference to the statement in page 5, that, under the arrangements sanctioned by us, the superstition at Juggernaut "is now flourishing beyond all experience;" and with reference also to the statements in pages 9, 12, 13, 14, 15, 19, and 22, regarding the loss of life among the pilgrims, rated as high as 50,000 yearly, you will at the same time ascertain the truth in these respects, as correctly as may be practicable, from the best informed quarters.

7. You will lose no time in transmitting to us the most accurate information procurable, on the several points above specified.

We are, &c.  
(signed) *J. L. Lushington,*  
*John Cotton,*  
&c. &c.

London, 4 April 1843.

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— No. 4. —

(No. 26.)

Legislative Department, 6 December 1843.

Our GOVERNOR-GENERAL of *India* in COUNCIL.

Superintendence of  
Native Religious  
Institutions.

WITH reference to the instructions conveyed to you in our despatch of the 4th of April last, in this department (No. 6 of 1843), we have to express our hope that the information therein called for, with respect to the temple of Juggernaut, has been already obtained and transmitted to us; and our desire that this should be done without delay, in the event of your inquiries on the subject not having yet been completed.

We are, &c.  
(signed) *J. Cotton,*  
*J. Shepherd,*  
&c. &c.

London, 6 December 1843.

— No. 5. —

(No. 13.)

Legislative Department, 18 June 1844.

Our GOVERNOR-GENERAL of *India* in COUNCIL.

Para. 1. WE are much surprised and disappointed that we have received no reply to the instructions addressed to you in our despatch of the 4th April (No. 6) 1843, calling for information with regard to the Juggernaut pagoda, to which we drew your attention again in our despatch of the 6th December (No. 26) 1843.

Superintendence of  
Native Religious  
Institutions.

2. If the information have not been furnished before the receipt of the present despatch, we desire that this may be done immediately, with an explanation of the cause of the delay which has occurred.

We are, &c.  
(signed) *J. Shepherd,*  
*H. Willock,*  
&c. &c.

London, 18 June 1844.

— No. 6. —

HOME DEPARTMENT.—LEGISLATIVE.

(No. 14 of 1844.)

To the Honourable the COURT OF DIRECTORS of the EAST INDIA COMPANY.

Honourable Sirs,

WITH reference to your despatches, as per margin, we now have the honour to forward the report furnished by the Government of Bengal on the several points connected with the late arrangements for withdrawing all interference with the temple of Juggernaut, on which your Honourable Court require information; and we also submit for your Honourable Court's consideration, copies of the minutes which have been recorded by the late Governor-general, and by ourselves, on the particular question of the annual payment made by Government for the support of the temple.

Leg. No. 6 of 1843,  
dated 4 April.  
Leg. No. 26 of  
1843, dated 6 Dec.  
Appendix, No. 2.

We have, &c.  
(signed) *W. W. Bird.*  
*T. H. Maddock.*  
*F. Millett.*

Fort William, 12 July 1844.

— No. 7. —

(No. 25.)

Legislative Department, 18 December 1844.

Our GOVERNOR-GENERAL of *India* in COUNCIL.

(No. 14.)

India Legislative Letter, 12 July 1844.

Para. 1. FROM the papers accompanying your letter in this department of the 12th of July last (No. 14), respecting the temple of Juggernaut, we are fully confirmed in our previous impression that the employment of Purharees, or pilgrim-hunters, is not sanctioned by the Government, and that the authority of the police is never exerted in forcing the labouring classes to drag the car at Juggernaut, or at any other temple, but always in protecting them from any such compulsory service. The imputations cast upon the Government in these respects prove to be wholly groundless.

Juggernaut.

2. It appears that the records of your Government do not enable you to show upon what specific ground it was stated in Lord Auckland's minute of the 17th November 1838, that "our promise of the allowance for the support of the temple is distinct and unconditional." The nature of the pledge under which it was considered incumbent upon us to continue the established allowance, seems to have been the assurance held out by Sir Arthur Wellesley in his negotiation with the Mahratta Vakeels, and by Lord Wellesley and the officers acting under his authority in Cuttack, that the temple, and the bramins attached to it, should be taken under the protection of the British Government. This assurance was in strict conformity with the principles on which the affairs of our empire in India have uniformly been administered. The allowance was fixed at 60,000 rs. per annum, but is stated in the report of the Bengal Government, dated 11th March 1844, to have been reduced to 36,178 rs. 12 a. 2 p. in consequence of "the relinquishment of the Sataees Huzaree estate" to the temple. We are of opinion that it would be very advisable, according to the suggestion offered in the same report, to commute the remainder of the allowance in the same manner, by restoring any other lands of equal value which may formerly have belonged to the temple. We desire therefore that if you concur in this view you will take the necessary measures for carrying this arrangement into effect; and that the lands may be left exclusively to the management of the officers of the temple, and thus that the discontinuance of our interference with its concerns may be made complete.

We are, &c.

(signed) *J. Shepherd,*  
*H. Willock,*  
&c. &c.

London, 18 December 1844.

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— No. 8. —

(No. 18.)

**EXTRACT LEGISLATIVE LETTER from *India*, dated 28 June 1845.**

Letter to, No. 25 of 1844.  
Proposed commutation of the  
money allowance paid to the  
Temple of Juggernaut.  
Leg. Cons. 15 March 1845,  
No. 16.

Appendix, No. 3.

Para. 36. THE Government of Bengal has been furnished with a copy of this despatch, and requested to call for a report respecting any land that may formerly have belonged to the temple of Juggernaut, and which may now be made over for the purposes of that temple, in commutation of the money allowance at present paid by Government.

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## APPENDIX TO PART II.

## Appendix, No. 1.

ENCLOSURES to Paragraph 40, LEGISLATIVE LETTER, 4 November (No. 19,) 1842.

EXTRACT from the Proceedings of the Honourable the President of the Council of India in Council, in the Home Department (Legislative), under date 31 May 1842.

(No. 1,122.)

(No. 9.)

From the Officiating Deputy Secretary to the Government of Bengal, Revenue Department, to *F. J. Halliday*, Esq., Officiating Secretary to the Government of India; dated 5 September 1842.

Sir,

WITH reference to the orders communicated in Mr. Secretary Maddock's letter, No. 147, of the 1st November 1841, I am directed by the honourable the Deputy Governor of Bengal to request that you will lay before the Supreme Government the accompanying correspondence in original,\* regarding the transfer of the Suttaees Heuzaree Mehal to the Rajah of Khureeh, as superintendent of the Juggernaut temple, under the instructions received from the Honourable Court, for the withdrawal of all interference with the land belonging to that endowment.

2. The Sudder Board of Revenue were directed, in furtherance of the above orders, to submit an opinion as to the best mode of transferring these lands, and they, in consequence, recommended on the 21st January last, that the estate denominated Sataees Heuzaree, now under government management, should at once be made over to the Rajah.

3. The wishes and interests of the ryots and inhabitants of the estate appearing not to have been sufficiently consulted or inquired into, as had been the evident intention of the Court and Supreme Government, the Board are again called upon to ascertain whether they might not desire a settlement, or a delivery of pottahs to them, previously to the mehal being made over to the Rajah.

4. The result has been that they are found to be anxious to receive pottahs from Government, as shown by the Board's letter of the 17th ultimo, No. 315; and it will be seen from the correspondence that had previously taken place, that the terms on which the Board and Commissioner of Cuttack have recommended the mehal to be made over, are that its average proceeds now carried to credit of the Government donation to the temple, should be deducted therefrom, and the embankments should be kept up by Government as heretofore, the expense being borne by the estate. The Deputy Governor is of opinion that the transfer recommended by the Honourable Court may properly be carried into effect in the manner suggested by the Board and the Commissioner, pottahs being first given to the ryots who have declared themselves desirous of receiving them. His Honor solicits the instructions of the Supreme Government on the subject.

5. With regard to the modification of Regulation XIX. of 1810, the Board, as will be perceived, were directed, under orders of the 16th November 1841, to prepare and submit a draft Act in conformity with the views of the Honourable Court of Directors; this they have not yet done, and it is the intention of His Honor to call their particular attention to the same.

I have, &amp;c.

(signed) *John S. Torrens*,

Officiating Deputy Secretary to the Government of Bengal.

Fort William, 5 Sept. 1842.

(No. 1,512.)

Enclosure (No. 10).

From *F. J. Halliday*, Esq. Secretary to the Government of Bengal, to Secretary Sudder Board of Revenue; dated 16 June 1841.

Rev. Dept.

Sir,

I AM directed by the Right honourable the Governor of Bengal to forward the accompanying copy of a letter, No. 147, of the 1st instant, from the secretary to the Government of India,

\* To Secretary to Sudder Board of Revenue, No. 1,512, dated 16th November 1841.

From Secretary to Sudder Board of Revenue, No. 21, dated 21st January 1842, with one enclosure.

To Secretary to Sudder Board of Revenue, No. 179, dated 1st February 1842.

From Secretary to Sudder Board of Revenue, No. 155, dated 27th April 1842, with enclosure.

To Secretary to Sudder Board of Revenue, No. 632, dated the 23d May 1842.

From Secretary to Sudder Board of Revenue, No. 315, dated the 17th instant, with one enclosure.

India, with a copy of the despatch from the Honourable the Court of Directors to which it gave cover.

2. The Board will perceive that the despatch conveys instructions under two heads; first, the modification of Regulation XIX. 1810, so that "the rules which require any European officers to interfere in the management of the funds and affairs of any mosque, pagoda, or temple, may be rescinded." The Board are requested to prepare a draft Act for this purpose, and so as to provide that suits against managers of such institutions for misfeasance may be tried in the courts on the plaint of any interested party.

3. The second head of the Honourable Court's despatch recommends the withdrawal, under certain circumstances, of the Government management from lands belonging to the temple of Juggernaut, which for the sake of ensuring justice and protection to the ryots, it had been considered by the Supreme Government desirable to retain.

4. The Board will be pleased to communicate with the Commissioner of Cuttack upon this subject, and to ascertain and report his opinion, how far consistently with existing pledges, expressed or understood, the Government management can now fairly be withdrawn; and also to what extent those special circumstances have actually taken place in Cuttack, which the Court allude to as rendering it possible to withdraw from the management without injuring the ryots.

I have, &c.

(signed) *F. J. Halliday,*  
Secretary to the Government of Bengal.

Fort William, 16 November 1841.

(No. 21.)

From *E. Currie*, Esq. Secretary to the Sudder Board of Revenue, to *F. J. Halliday*, Esq. Secretary to the Government of Bengal, Revenue Department; dated 21 January 1842.

Sir,

Present, C. W.  
Smith, esq.

I AM directed by the Sudder Board of Revenue to acknowledge the receipt of your letter, No. 1,512, of 16th November last, forwarding copy of a letter, No. 147, of 1st idem, from the secretary to the Government of India, together with the copy of a despatch from the Honourable the Court of Directors, under date 25th August 1841.

2. With reference to the second paragraph of your letter under reply, the Board desire me to state that they will give their best and early attention to the proposed modification of Regulation XIX. of 1810, but the subject is a wide as well as an important one, and they solicit his Lordship's indulgence for a brief delay.

3. In regard to the second head of the Honourable Court's despatch, which recommends the withdrawal of the Government management from lands belonging to the Temple of Juggernaut, the Board observe, that there appears to have been some misapprehension either on the part of the home authorities or of the Supreme Government, respecting the ground on which it was proposed to retain the management of these lands in the hands of the revenue authorities. They are not aware that this plan was ever considered necessary for the purpose of securing protection and justice to the ryots; but the management was retained by the revenue authorities, because the net proceeds of the lands (amounting, the Board believe, to about 17,000 rupees per annum) go to the reduction of the annual amount paid by the state as a donation. This was fully explained in the 9th paragraph of the Board's report, No. 230 of 19th June 1839, and again in the 6th paragraph of their subsequent address, No. 269 of 30th May 1840.

4. Upon the receipt of your letter under reply, the Board called upon the Commissioner of Cuttack for any information he might be able to afford respecting the Sattaees Heuzaree Mehal, and the report of that officer, No. 101 of 12th instant, is herewith forwarded for the information of Government, under the circumstances therein detailed, and with reference to the wishes of the Honourable Court, it is certainly desirable that the management of these lands should be transferred to the superintendent of the temple, and this arrangement may very easily be effected by making over to that person the Sattaees Heuzaree Mehal, and by deducting from the annual donation the amount, which, upon an average of the last ten years, has been carried to the credit of that donation, on account of the profits of the mehal. If his Lordship approves of this suggestion, the Board will instruct the local authorities to carry it into effect.

I have, &c.

(signed) *E. Currie,*  
Secretary.

Sudder Board of Revenue, Fort William,  
21 January 1842.

From *A. J. M. Mills*, Esq., Commissioner of the 19th Division, to the Secretary to the Sudder Board of Revenue, Fort William; dated 12 January 1842.

Sir,

I HAVE the honour of acknowledging the receipt of the Board's letter, No. 303, of the 8th of December, requesting me to report at what period, and under what circumstances, the net proceeds of the Satais Heuzaree Mehal were first applied to the reduction of the amount granted by Government as a donation to the temple of Juggernaut.

2. I called

2. I called on the collectors of Cuttack and Pooree to furnish the required information. The collector of Cuttack stated that he was unable to trace any documents in his office relative to the Satais Heuzaree Mehal. The collector of Pooree premising that he could obtain no information from the records, replied to the following effect, that he was informed by the Rajah of Kurdah and the Dewal Kureen, that from the conquest till the year 1216, or 1808, A. D., it was the custom for the Purchasees of the temple to collect the revenues from the lands, &c. appropriated to the support of Juggurnauth, and to expend it in the service of the idol, like any other lakeraj land, Government making up the deficiency whatever it might be; and that in the year above mentioned the land was taken under the management of Government on an application from the Purchasees, and the expenses of the temple defrayed from the collections of the Pilgrim tax, the revenue of these lands and khunjahs, &c. which come under the denomination of the Saties Heuzaree Mehal, being carried to account in that office, where it continued till the abolition of the tax.

3. The collector argues that the revenue of the Satais Heuzaree Mehal was not applied as a reduction of the amount paid by Government, but that the said amount, which varied at different times, was given in excess by the Government; but it appears to me that a directly opposite conclusion is fairly deducible from the facts above set forth.

4. I have been more successful than the collectors in searching the records of my office, and I gather the following particulars from the correspondence noted in the margin. Collector to Revenue Board, dated 19th December 1807. Board to Government, dated 29th December 1807. Government to Board, dated 29th January 1808.

5. It appears that up to the year 1207, the lands assigned for the support of the temple were managed by its servants, the receipts and disbursements were annually adjusted, and the deposit, which varied each year, was made good by cash payments from the Government treasury.

6. Mr. Webb, with his report of the 19th November 1807, submitted a detailed account of the different expenses connected with the support of the temple, of receipts of every kind, which of course include the collections of the Satais Hazaree Mehal (the principal source of the revenue), and of the cash advanced by Government for six years. From this it appears that the expenses of the temple for six years averaged sicca rupees 65,995. 5a. 9g. 1c., the receipts of every kind, sicca rupees 30,884. 12a. 13g., and the cash advanced by Government, sicca rupees 29,355. 11a. 13g. 1c.\* Mr. Webb disallowed various charges, and proposed to allow sicca rupees 56,342. 9. 8. Average receipts were taken at 30,884 sicca rupees; deficit 25,458 rupees, as the amount to be annually disbursed by Government: and as to khunjees or fixed assignments on the jumma of the district, he added, "of the khunjahs or fixed assignments several have been brought on the jumma of the district, a measure which I would recommend to be adopted with all, and the amount may be paid from the treasury of Government. This mode would certainly be more advantageous than allowing the servants of the temple to collect from the landholders of the district, who, in fact, receive a deduction in their revenue on this account." The Revenue Board, in their letter of 29th December 1807 to the Governor-general in Council, concurring in the admissibility of the measure, proposed to instruct the collector to include the amount in the ensuing settlement of the district.

7. The Government approved of the Board's proposition for limiting the expenses of the temple in future to a sum not exceeding sicca rupees 56,342. 9a. 8p., exclusive of the broad cloth, which was directed to be supplied from the Export warehouse, and desired the Board to issue the necessary instructions to the collector; the Board gave no specific directions, merely sending the correspondence for the collector's information and guidance; but from that date, viz. 5th February 1808, the above amount has been paid from the tax treasury, and the Saties Hazaree Mehal has been managed by the tax officers.

8. I quote from a subsequent letter from the Board to the Governor-general in Council, dated 18th of March 1808, the following paragraphs:

9. "From the report which we had the honour to submit to your Lordship in Council, on the 29th December last, relative to the receipts and disbursements of the temple, it will be seen that the whole of the expense which the collector deemed necessary for the temple was 56,342 sicca rupees. The average receipts on account of the temple, for six years, were 30,884 sicca rupees, leaving a deficiency of 25,458 rupees to be paid by Government. Instead of paying a fixed sum under the new system, we formerly stated it as our opinion that it would be more advisable to allow, in addition to the endowments of the temple, a certain per-centage upon the collections on account of the tax, in order that the income of the temple and the revenues of Government might rise or fall together."

10. "In respect to the receipts on account of the tax for 1807, if 20 per cent. were allowed on the gross collections, the income of the temple, assuming the endowments at 30,884, would be only 1,960 less than the amount fixed by the collector for the future expenditure on account of the temple. From the reports received from the collector, particularly from the letter which we had the honour to submit on the 29th December last, there appears every reason to suppose that the resources of the land assigned as an endowment to the temple,

\* The proceeds of the Sataes Hazaree Mehal have considerably fallen off: they are assumed by Mr. Wilkinson (*vide* Commissioner's letter to Board, No. 2,133, dated 14th September 1837) at Rs. 16,738. 9. 10., and I am awaiting a report from the collector to bring the subject of the resettlement of the lands to the Board's notice.



temple, are considerably more than the amount brought to account; we therefore conceive that if 20 per cent. upon the net receipts by Government were annually allowed, it would abundantly suffice for the expenses of the temple, under the management of the Rajah of Khurdah."

9. The Governor-general in Council, in reply, dated 8th of April 1808, stated as follows: "The Governor-general in Council approves your proposition for granting a per-centage on the net receipts arising from the tax on pilgrims in aid of other endowments of the temple, and he is not aware of any objection to fixing the rate at present at 20 per cent. His Lordship in Council is, however, of opinion that an option should be reserved to Government of augmenting or reducing the rate as from time to time may appear advisable."

10. I cannot, however, find that the per-centage in the net receipts accruing from the tax was annually paid. The amount paid by Government orders above quoted, is the amount which has been annually disbursed.

I have, &c.  
(signed) A. J. M. Mills,  
Commissioner.

Office of Commissioner, 19th Division,  
12 January 1842.

(No. 179.)

From F. J. Halliday, Esq., Secretary to the Government of Bengal, to Secretary Sudder Board of Revenue; dated 1 February 1842.

Sir,

I AM directed by the Right honourable the Governor of Bengal to acknowledge the receipt of your letter, No. 21, of the 21st ultimo, with its enclosure, being a reply to the orders communicated on the 16th November last, No. 1,572, regarding the modification of Regulation XIX. of 1810, and withdrawal of the interference of Government with the lands belonging to the temple of Juggernath.

2. His Lordship observes that the Board consider the Supreme Government to have misapprehended the ground upon which it was proposed to retain the management of the lands belonging to the temple of Juggernath, in the hands of the revenue authorities; and it appears that the Board have therefore thought it unnecessary to make the inquiry suggested in my letter.

3. But though it is very true that the Commissioner and the Board gave, for the recommendation they made, the reason stated in your letter, it is certain that the measure was adopted by the Supreme Government for the reasons described in para. 3 of my letter, No. 1,512, of the 16th November 1841, viz. for the sake of ensuring justice and protection to the ryots.

4. His Lordship requests, therefore, that the Board will prosecute the inquiry indicated in my former letter, and report the result.

I have, &c.  
(signed) F. J. Halliday,  
Secretary to the Government of Bengal.

Fort William, 1 February 1842.

(No. 155.)

From E. Currie, Esq., Secretary to the Sudder Board of Revenue, to F. J. Halliday, Esq., Secretary to the Government of Bengal, Revenue Department, Fort William; dated 27 April 1842.

Sir,

Mis. Dept. Present,  
C. W. Smith and  
T. R. Davidson,  
esqrs.

IN reply to your letter of the 1st February last, No. 179, directing the institution of further inquiry on the subject of discontinuing the interference of Government with the lands belonging to the temple of Juggernath, I am directed by the Sudder Board of Revenue to submit, for the consideration and orders of the Honourable the Deputy Governor of Bengal, the accompanying letter, No. 789, from the Commissioner of Cuttack, under date the 2d instant, with its enclosures.

2. There appears to the Board to be no reason why the lands in question, commonly called the Sattaees Hazaree Mehal, should not at once be made over to the Rajah of Khurda, as superintendent of the temple. The grounds on which Government sanctioned his exclusion from the management of Delung in 1819, do not apply to the present case, and as the mehal is an endowment of the temple, the government officers would not be warranted in making any settlement of the lands as proposed by the collector; while, on the other hand, the ryots will enjoy the protection of the laws in the same manner as the tenants of any other estate.

3. There can be no objection to a compliance with the Rajah's request, that the average proceeds of the estate may be deducted from the two last kists of the government donation. The embankments, as recommended by the commissioner, should be kept up by the Government, as heretofore, the expense being borne by the estate in the manner suggested by Mr. Mills, viz. by adding the average cost of the repairs to the amount of deduction to be made from the annual donation.

I have, &c.  
(signed) E. Currie, Secretary.

Sudder Board of Revenue, Fort William,  
27 April 1842.

(No. 789.)

From A. J. M. Mills, Esq., Commissioner of the 19th Division, to the Secretary to the Sudder Board of Revenue, Fort William; dated 2 April 1842.

Sir,

I HAVE the honour to reply to your letter, No. 30, of the 19th February last, on the subject of withdrawing the interference of Government with the lands belonging to the temple of Juggurnauth, to forward copy of a letter from the officiating collector of Poona together with the translate of a letter from the superintendent of the temple.

2. The superintendent was called on to state whether he had any objection to undertake the management of the Satees Hazaree Mehal, on the terms mentioned in the fourth paragraph of your address to Government, No. 21 of the 21st January 1842.

3. The Board will observe that the Rajah is willing to take the mehal under his own management, but stipulates that the average amount of receipts, which comes to 17,001 rs. 10 a. 8 p. (as per statement at foot), may be deducted from the two last kists, and that the embankments may be kept up as heretofore by Government. To the first proposition there is of course no objection. As regards the embankments, I am informed by the executive officer that the sum of 4,184 rs. 12 a. 10 p. has been expended by Government in constructing and repairing embankments in the Satais Hazaree Mehal during the last ten years, which gives an average expenditure of 418 rs. 7 a. 8 p. per annum.

	Rs.	a.	p.
1239 - - -	17,055	2	5
1240 - - -	18,085	8	8 ½
1241 - - -	18,083	4	7 ½
1242 - - -	17,963	10	2 ½
1243 - - -	17,175	-	3
1244 - - -	16,626	1	- ½
1245 - - -	17,767	11	-
1246 - - -	16,049	10	9 ½
1247 - - -	15,275	13	10 ½
1248 - - -	15,984	11	10 ½

4. The officiating collector is of opinion that the mehal should be settled first, and then made over to the superintendent; as he remarks, that if made over in its present state, the superintendent will be enabled to act exactly as he pleases; whereas, if settled, there would be some protection for the ryots, who, he fears, would otherwise suffer much by change.

TOTAL - Rs. 170,016 10 9 ½

5. The Rajah of Khurdah bears the character of being an ignorant and thrifty landlord, utterly regardless of the rights and happiness of the peasantry. He has been excluded from the management of the Limbaee Pergunnah, Talookah Delany, because of the fear which was entertained that his management would be detrimental to its prosperity. I send, for easy reference, extracts from the correspondence on this subject.

6. I do not, myself, attach much importance to this impression. If the Rajah be allowed to engage for Delany, he should, in like manner, be entrusted with the management of the Satais Hazaree Mehal. Touching the settlement of this mehal, I do not see how, as the mehal is an endowment of the temple of Juggurnauth, we could legally make a detailed settlement of the lands; and though the ryots may not therefore be so effectually shielded as the ryots of Delany are from injustice and oppression, yet when it is remembered that a ryot can obtain summary redress with damages, if any attempt be made to levy by distraint an unjust rent from him, and can, either under section 18 of Regulation VIII. of 1819, or under Act XL. of 1840, be summarily restored to and maintained in possession (by either the collector or the magistrate) of the lands from which he may have been ousted, it must, I think, be admitted that he, the ryot, is well and duly protected.

7. The circumstances detailed in my report of the 12th January last, No. 101, will fully show that no pledge, expressed or understood, stands in the way of our restoring the mehal to the superintendent of the temple.

8. Touching the embankments, I would recommend that they be kept up, as heretofore, by Government. It is necessary, I think, for the completeness of the general embankment lines, that Government should retain charge of and repair the same; but I would deduct the amount of the annual average cost of repairs, viz. 418 rs. 7 a. 8 p. as well as the average profits for the last ten years, and make over the mehal to the superintendent, reducing the annual donation on account of the temple to the sum noted below\*.

I have, &c.

(signed) A. J. M. Mills, Commissioner.

Office of Commissioner, 19th Division, }  
2 April 1842.

(No. 120.)

From O. W. Malet, Esq., Officiating Collector of the Southern Division of Zillah Cuttack, to the Commissioner of the 19th Division Cuttack; dated 8 March 1842.

Sir,

In answer to your letter, No. 490, dated 1st instant, regarding the making over the Sathaees Hazaree Mehal to the superintendent of the temple, on the condition of the ten years' average of the profits of the estate being deducted from the present allowance for the

	Rs.	a.	p.
* Annual Donation - - - - -	53,178	11	-
Deduct, on account of Satais Hazaree Mehal - Rs. 17,001 10 8			
On account of embankment repairs - 418 7 8			
	17,420	2	4
	Rs. 35,758	9	6

the temple, I have the honour to forward in original the Rajah's answer to my perwannah on the subject.

2. He is willing to receive it, but wishes that he may receive his payment in three of the five kists, as at present, the deduction, which amounts to rupees 17,001. 10. 8. to be made out of the other two, and wishes the bunds, &c. to be kept up by Government.

3. The dates of payment and requested deductions are as follow :

Assin, or September	-	-	-	-	-	13,294	10	11 $\frac{1}{2}$
Aughun, or November	-	-	-	-	-	13,294	10	11 $\frac{1}{2}$
Poos, or December	-	-	-	-	-	6,647	5	5 $\frac{1}{2}$
Fagun, or February	-	-	-	-	-	13,294	10	11 $\frac{1}{2}$
Bysack, or April	-	-	-	-	-	6,647	5	5 $\frac{1}{2}$

4. I have not been called upon for my opinion, but trust I shall not be deemed impertinent in saying that I think it would be the best plan to settle the mehal first, and then make it over to the superintendent. If made over in its present state, he will be enabled to act exactly as he pleases ; whereas, if settled, there will be some protection for the ryots, who I fear otherwise will suffer much by the change.

Southern Division of Zillah Cuttack,  
Collector's Office, Poona, 28 March 1842.

I have, &c.  
(signed) O. W. Malet,  
Officiating Collector.

(True copy.)

(signed) W. H. Martin,  
Uncovenanted Assistant to Commissioner.

EXTRACT from a LETTER of Mr. W. Wilkinson, Collector ; dated 20 October 1837.

31. THE zemindar of this estate is Maharaja Ramchunder Deo, Rajah of Khurdah, and in his petition in reply to my call on him to state whether he was willing or not to engage on the terms proposed, objects to the jumma, and says that he could not pay a higher assessment than 30,000 rs. per annum. This, considering his rank and the peculiarities of Limbaee in respect to its great liability to inundation, I believe he could not do ; and were I disposed or did I think it expedient to recommend his restoration, I should certainly not fix a higher sum for him to pay than he has himself ; but from his character, habits, and situation, I am of opinion it would be ill-judged policy to restore him. By adoption of such a measure Government would lose annually 5,943 rupees per annum, and the inhabitants would not in any way benefit by the change of management ; neither do I think that they wish for his restoration.

32. The Rajah is extremely ignorant, prejudiced against all reform and improvement, and so attached to the customs of his forefathers, as not to allow even his son and heir to leave the walls of his palace before his own death, let it be ever so protracted. He considers himself a sovereign, and would be looked upon as such by the ryots of Limbaee ; and he is thrifty of his money, and has, I understood, accumulated a considerable sum ; yet he has no aptness for business, and would entrust the entire management of the zemindaree to agents, if not revert to the plan which his father adopted, apportioning the several villages of the pergunnah amongst his personal attendants, in lieu of salary.

Vide para. 29 of Mr. Stirling's letter, dated 26th October 1819.

33. The Rajah is very anxious to obtain possession of this estate, and has repeatedly petitioned the several Commissioners to be readmitted to engagements ; and Government have also declared it to be expedient to treat him with every consistent degree of liberality ; but feeling satisfied that, in addition to the loss of revenue, his admission to the management of the mehal would be detrimental to its prosperity, I recommend that his offer be not acceded to, and that he receive, as heretofore, 10 per cent. malikanah on the actual collections.

(signed) O. W. M.

EXTRACT from a LETTER of Mr. Stirling, Secretary to the Commissioner ; dated 24 October 1819.

24. It appears, however, to the Commissioner necessary to consider fully, on the present occasion, the line of conduct to be adopted towards the acknowledged zemindar of this estate, the Rajah of Khurdah.

25. It would now be fruitless, he observes, to regret the admission of this person's title to a zemindaree tenure in pergunnah Limbaee, through a mistake as to the fact of his possession in former years, which was discovered when just too late. The grant of proprietary rights to the heads of villages, as having the best claim to the privilege, and a separate settlement with them, would probably have promoted essentially the welfare of the ryots, and the improvement of the estate, and have secured to Government a far larger revenue than can ever be obtained through the medium of a zemindar of the Rajah's character.

26. The system of management all along pursued by Rajah Mukund Deo, as described in Mr. Forester's report, appears to have been very injurious to the prosperity of the estate ; and

and he evidently had no feelings for the rights and happiness of that peasantry who, under all circumstances of calamity and revolution, still retains so strong a sentiment of attachment towards the representative of their ancient chiefs. Mr. Trower had likewise remarked on this subject in his report on the Limbaee settlement. The Rajah, who constantly resides at Poree, and entrusts his concerns to a set of unprincipled agents, who have plundered him and oppressed the ryots, has always been in distress, and never able to perform his engagements. The ryots will now be relieved from their thralldom, &c.

(signed) O. W. M.

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EXTRACT from a LETTER of Mr. *Stirling*; dated 26 October 1819.

17. As far as the question of strict right is concerned, Government has determined that the Rajah cannot claim under any regulation or order to engage on any more favourable terms than as a zemindar, at a fixed and comparatively easy jummah, with reference to the ordinary principles of assessment. It may be added, that the family, it is believed, have long ceased to expect that they will ever be readmitted to the possession of the estate on such highly favoured terms as alone would render it worth their having. The arrangement suggested for their support and maintenance, in the letter regarding Limbaee, is sufficiently liberal, and, combined with the pecuniary and other advantages resulting from the superintendency of the temple, must entirely preclude all just ground of complaint.

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EXTRACT from a LETTER of Mr. *Holt Mackenzie*, Secretary to Government; dated 24 December 1819 (No. 8.)

28. THE sentiments of Government generally concur with those expressed by the late Commissioner, in regard to the course of procedure to be followed towards the Rajah of Khurdah. The conduct of the late Rajah, or his officers, would seem to have been little calculated to promote the prosperity of the inhabitants of that tract of country; and there appears reason to fear that the management of the present Rajah would not prove more successful.

(True extracts.)

(signed) O. W. Malet,  
Officiating Collector.

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(No. 632.)

From *F. J. Halliday*, Esq., Secretary to the Government of Bengal, to the Secretary Sudder Board of Revenue; dated 23 May 1842.

Sir,

PREVIOUSLY to passing orders on your letter (No. 155) of the 27th ult., I am directed by the Honourable the Deputy-governor of Bengal to request that the Board will, if possible, caused to be ascertained from the ryots themselves of the Sattaees Heazaree Mehal whether they are desirous of having a settlement and pottahs before making the mehal over to the Rajah of Khurdah, or superintendent of the Juggernath temple.

Fort William, 23 May 1842.

I have, &c.  
(signed) *F. J. Halliday*,  
Secretary to the Government of Bengal.

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(No. 215.)

From Secretary to the Sudder Board of Revenue, to *F. J. Halliday*, Esq., Secretary to the Government of Bengal, Revenue Department; dated 17 August 1842.

Sir,

WITH reference to your letter of the 23d May last (No. 632), I am directed by the Sudder Board of Revenue to submit, for the information of the Honourable the Deputy-governor, the accompanying copy of a letter from the collector of Khurdah, to the address of the Commissioner, under date the 8th instant, from which it appears that the ryots and surburkars of the Suttaees Hazaree Mehal are desirous of receiving pottahs from Government. Mis. Dept. Present, T. R. Davidson, esq.

Sudder Board of Revenue,  
17 August 1842.

I have, &c.  
(signed) *E. Currie*, Secretary.

(No. 427.)

From *R. C. Hamilton*, Esq. Collector of Southern Division Zillah Cuttack, Pooree, to  
*A. J. M. Mills*, Esq. Commissioner for the 19th Division Cuttack, dated the 8th  
August 1843.

Sir,

I HAVE the honour to acknowledge the receipt of your letter, No. 1,401, dated the 20th of June last, with copy of one from Government to the address of the Sudder Board of Revenue, No. 632, dated the 23d of May 1842, and in reply to state that I have made particular inquiries on the subject, and have ascertained that the ryots and surburakars of the Sattaees Hazaree Mehal will be very thankful for pottahs previous to making over the mehal to the Ex-Rajah of Khurdah, as superintendent of the Juggernath temple.

I have, &c.  
(signed) *R. C. Hamilton*,  
Collector.

Southern Division Zillah Cuttack,  
Commissioner's Office, Pooree, 8 August 1843.

(A true copy.)  
(signed) *E. Currie*, Secretary.

Sudder Board of Revenue, Fort William,  
17 August 1842.

(No. 37.)

(No. 11.)

From *T. R. Davidson*, Esq., Officiating Secretary to the Government of India, to *F. J. Halliday*, Esq., Secretary to the Government of Bengal, dated 31 May 1843.

Sir,

I AM directed to acknowledge the receipt of your letter, No. 1,122, dated the 5th September last, regarding the proposed transfer of the Sattaees Hazaree Mehal to the Rajah of Khurda, as superintendent of the Juggernauth temple, under the instructions received from the Honourable Court for the withdrawal of all interference with the lands belonging to that endowment.

2. The Honourable the President in Council approves of the arrangements recommended in paragraph four of your letter for making the transfer in question; the ryots being in the first instance furnished with pottahs from the collector.

3. His Honor in Council requests that the Sudder Board may be called upon to submit without delay the draft Act alluded to in the concluding paragraph of your despatch.

I have, &c.  
(signed) *T. R. Davidson*,  
Officiating Secretary to the Government of India.

Fort William, 31 May 1843.

*P. S.*—The original papers which accompanied your letter are herewith returned.

## Appendix, No. 2.

ENCLOSURES to LEGISLATIVE LETTER, 12 July, (No. 14,) 1844.

(No. 35.)

From *T. R. Davidson*, Esq., Officiating Secretary to the Government of India, to *F. J. Halliday*, Secretary to the Government of Bengal, dated 24 May 1843.

Sir,

I AM directed by the Honourable the President in Council to request that you will submit for the consideration of the Honourable the Deputy-governor of Bengal, the accompanying copy of a despatch from the Honourable the Court of Directors, dated the 4th of April last, transmitting copies of a publication respecting the present state of the temple of Juggernath. The Honourable the President in Council requests that his honor the Deputy-governor will be pleased to direct the information which the Honourable Company requires to be furnished to the Supreme Government.

I have, &c.  
(signed) *T. R. Davidson*,  
Officiating Secretary to the Government of India.

Council Chamber, 24 May 1843.

Home Dept.  
Revenue.

(No. 8.)

From *T. R. Davidson*, Esq., Officiating Secretary to Government of India, to *F. J. Halliday*, Esq., Secretary to Government of Bengal, dated 17 February 1844.

Sir,

I AM directed by the Honourable the President in Council to forward to you, to be laid before the Honourable the Deputy-governor the accompanying copy of a despatch from the Honourable the Court of Directors, dated 6th December, No. 26, of 1843, and to request that the information with respect to the temple of Juggernath, called for in my letter, No. 35, dated the 24th May last, may be furnished without delay.

Home Dept.  
Revenue.

I have, &amp;c.

(signed) *T. R. Davidson*,

Council Chamber, 17 February 1844.

Officiating Secretary to Government of India.

(No. 177.)

From Secretary to the Government of Bengal to *T. R. Davidson*, Esq., Officiating Secretary to the Government of India, Home Department; dated Fort William, 11 March 1844.

Sir,

I AM directed by the Honourable the Deputy Governor of Bengal to acknowledge the receipt of your letter, No. 35 of 24th May 1843, with its enclosure, being copy of a despatch from the Honourable Court of Directors in the Legislative Department, No. 6 of 1843, requiring information on the following heads:

Revenue.

1. What are the specific grounds on which it was stated in Lord Auckland's Minute of 17th November 1838, "Our promise of the allowance for the support of the temple is distinct and unconditional"?
2. What is the authority under which "the established donation for the support of the temple of Juggernath," mentioned in Regulation XII. of 1805, section 20, was first granted, or the period during which it may have been known to have been received, and its amount?
3. Is the assertion correct, that "the lands belonging to the temple," ever constituted "the only known endowment pertaining to it"?
4. Is the trade of the Puharees or pilgrim hunters sanctioned by Government?
5. Is the authority of the police employed to impress the labouring classes to drag the car at Juggernath, or at any other temple?
6. Is it true, that under the arrangement sanctioned by the Honourable Court, the superstition at Juggernath is now flourishing beyond all experience; and lastly,
7. What is the proportion of mortality among the pilgrims; and does it, as has been stated, reach the extent of 50,000 annually?

2. I am now to transmit to you, for the information of the Right honourable the Governor-general in Council, the correspondence which has taken place, in furtherance of the directions of the Supreme Government and the Honourable Court, and which will supply all the information procurable upon the subjects referred to.

Letter to Officiating Secretary, Sudder Board of Revenue, No 578, dated 29th May 1843.  
Letter to ditto, No. 740, dated 24th July 1843.  
Letter from ditto, No. 270, dated 4th August 1843.  
Letter to ditto, No. 948, dated 9th October 1843.  
Letter from ditto, No. 350, dated 27th October 1843, with enclosures.

3. Regarding the last five questions, it will be seen—

1st. That the assertion is not correct, that "the lands belonging to the temple" ever constituted "the only known endowment pertaining to it." Upon this head the following extract is given by the Commissioner from a statement prepared by Mr. Græme, the collector, in 1805:—

	Jumma of 1211 Kahuns of Cowrees.	
Mouzahs or villages comprising the Satais Hazaree Mehal - - - - -	47,303 13 -	Rs. a. p. 11,848 7 3
Rent-free lands in small portions - - - - -	630 - -	157 8 -
Khunjah or money assignments of pergunnahs in the Mogulbundee - - - - -	68,711 - -	17,177 12 -
Khunjahs or claims on the rent-free lands and villages in the Mogulbundee - - - - -	29,107 12 15	7,276 15 2
Resources of the temple under various heads; viz. poll-tax, custom duties, intestate property, &c. -	42,533 12 6	10,638 7 1
Khunjahs in certain killahs - - - - -	3,113 8 -	778 6 -
	1,91,509 14 1	Sic. Rs. 47,877 7 6 or Co.'s Rs. 51,069 4 3

And upon every "Lall Jattree," 15 annas.

2d. That the trade of the Purbarees is not sanctioned by Government; and,

3d. The people are not pressed by the police to drag the car at Juggernath, nor, his Honor adds, at any other temple, the assertions of the pamphleteer on these two heads being entirely without foundation.

4th. That the abolition of the tax at Juggernauth has added to the number of the pilgrims, but that the splendour of the ceremonies has in no other respect been augmented.

5th. That the statement of 50,000 deaths annually among the pilgrims is a gross exaggeration, though it is not easy to frame any accurate estimate on the subject. The civil surgeon of Pooree, it is stated, computes the deaths among the pilgrims at that station during the last three years at 484 annually; but this, it is added, is exclusive of the mortality at the last Ruth Juttra, when it is reckoned that about 700 pilgrims died out of 50,000 who attended the festival.

4. Respecting the first two questions, the facts appear to be as follows:—

5. When the British forces entered Cuttack in 1803, great pains were taken to inculcate upon the officer commanding the necessity of conciliating the people by a careful attention to the sanctity of their religious edifices, and the security of their rites and ceremonies.

"The situation of the pilgrims passing to and from Juggernath will require," thus wrote Lord Wellesley to Colonel Campbell upon that occasion, "your particular attention. You will be careful to afford them the most ample protection, and to treat them with every mark of consideration and kindness.

"On your arrival at Juggernath, you will employ every possible precaution to preserve the respect due to the pagoda, and to the religious prejudices of the Brahmins and pilgrims. You will furnish the Brahmins with such guards as shall afford perfect security to their persons, rites, and ceremonies, and to the sanctity of the religious edifices, and you will strictly enjoin those under your command to observe your orders on this important subject with the utmost degree of accuracy and vigilance.

"The Brahmins are supposed to derive considerable profits from the duties levied on pilgrims; it will not, therefore, be advisable at the present moment to interrupt the system which prevails for the collection of those duties. Any measures calculated to relieve the exactions to which pilgrims are subjected by the rapacity of the Bramins, would necessarily tend to exasperate the persons whom it must be our object to conciliate. You will therefore signify to the Bramins that it is not your intention to disturb the actual system of collections at the pagoda. At the same time you will be careful not to contract with the Bramins any engagements which may limit the power of the British Government to make such arrangements with respect to that pagoda, or to introduce such a reform of existing abuses and vexations, as may hereafter be deemed advisable.

"You will assure the Bramins at the pagoda of Juggernath, that they will not be required to pay any other revenue or tribute to the British Government than that which they may have been in the habit of paying to the Mahratta Government, and they will be protected in the exercise of their religious duties.

"In every transaction relative to the pagoda of Juggernath, you will consult the Civil Commissioner whom I have named for the settlement of the province of Cuttack.

"You will understand that no part of the property, treasure, or valuable articles of any kind contained in the pagoda of Juggernauth, or in any religious edifice, or possessed by any of the priests or Bramins or persons of any description attached to the temples or religious institutions, is to be considered as prize to the army. All such property must be respected as being consecrated to religious use, or by the customs and prejudices of the Hindoos. No account is to be taken of any such property, nor is any person to be allowed to enter the pagodas or sacred buildings without the express desire of the Bramins."

6. At the same time the Governor-general addressed the Civil and Military Commissioners the following letter, which, with its enclosure, shows as clearly as that last cited, his Lordship's anxious desire to secure the goodwill of the Bramins of Juggernauth, and the expectations of favour and protection which it was thought expedient to hold out to them for this purpose:—

"I am directed by his Excellency the Most noble the Governor-general to transmit to you the enclosed letter from Juggernaut of Tirveni, the oldest and most eminent of the pundits of Bengal, to Ramchund and others, Bramins residing at the temple of Juggernaut, encouraging those Bramins to place the temple and themselves under the British protection.

"An English transcript of the substance of that letter, together with a memorandum in English and Persian, of the principal pundits residing at Juggernaut, are enclosed for your information.

"Mr. Hunter, who has been appointed to be an assistant to Mr. Melville, is charged with the delivery of this despatch.

"You will exercise your discretion with regard to the time and the mode of transmitting or delivering the letter to the persons to whom it is addressed; and you will adopt every measure practicable for the purpose of cultivating an amicable intercourse with the persons named in the memorandum."

7. The English transcript alluded to in this letter was to the following effect:

The Pundit Juggernaut "states that from the knowledge which he possesses of the character of the English, he is enabled to assure Ramchund, &c. that they need not be afraid to form a connexion with the British Government, which is distinguished for its peculiar benevolence to its subjects. That satisfied of this truth themselves, they must exert all their powers of persuasion to inspire the respectable characters in that quarter with the same degree

degree of confidence. That it is impossible adequately to express his sense of the excellencies which characterize the disposition of the English, and that the British Government not only permits the Hindoos to enjoy the free exercise of their religion, but manifests the greatest degree of benevolence, favour, and indulgence towards them, and all persons of whatever persuasion, rank, or condition in life."

8. That at this period, the authorities charged with the occupation of Cuttack were doing their utmost, according to the obvious intentions of Government, to inspire the Bramins of Juggernaut with a belief in the good intentions of the British Government towards their temple, and were holding out to them the understanding that the English would take the place of the native rule in all that respected the protection and support of the shrine, is clearly established by the extract of the letter which follows from the Civil Commissioner, Mr. Melville, to the Governor-general, dated 9th September 1803.

"I merely state those circumstances to your Lordship, as I do what a Bramin this day told me as a fact, that the Bramins at the holy temple had consulted and applied to Juggernaut to inform them what power was now to have his temple under its protection, and that he had given a decided answer that the English Government was in future to be his guardian."

9. Accordingly the Bramins and other officers connected with the temple, actuated no doubt by the belief which the previous negotiations were evidently intended to convey, received the invading army with perfect cordiality, which on the other hand was entirely expected and appreciated by the representative of the British Government, who thus writes to the Governor-general, under date 19th September 1803:

"The letter which Colonel Harcourt wrote to the priests of the temple of Juggernaut gave them much satisfaction, and they sent a deputation of some of their principal men to meet him one march distance from the temple; but on this subject I shall only say that they appear to consider their being placed under the protection of the British Government as a blessing of Providence."

10. The letter from Colonel Harcourt on this occasion was the following:

"I beg you will be pleased to state to his Excellency the Most noble the Governor-general that we have this day taken possession of the city of Juggernaut."

"Upon application from the chief Bramins of the pagoda, I have afforded them guards (of Hindoos), and a most satisfactory confidence is shown by the Brahmins, priests, and officers of the pagoda, and by the inhabitants of Juggernaut, both in their present situation and in the future protection of the British Government."

11. A few days later, Mr. Melville again addressed the Governor-general the following letter, in which he plainly expresses his expectation, which was also of course that of the Bramins and the people, that the British Government would assume, in regard to the temple, its expenses, the appointment of its officers, the pilgrim tax, and the annual donations, the same position that had been occupied by the former rulers.

"I have the honour to acquaint you, for the information of the Most noble the Governor-general in Council, that the temple and town of Juggernaut are placed under the happy protection of the British arms, and the immediate command of the party has most judiciously, by Colonel Harcourt, been given to an officer peculiarly qualified for the important trust."

"There are only two inlets to the town and temple of Juggernaut, and those are on the high road which leads through the Cuttack province, from the north to the south of India; the southern inlet is close to the town; and the northern inlet within less than the distance of a mile. At each of those inlets the Mahratta government kept a guard and an office, where a tax was levied on the pilgrims who were on their way to the temple; the rates which were fixed were higher on those who came from the northward than on those who came from the south; 11 rs. 3 as. was the sum payable by a pilgrim from Bengal, and pilgrims notoriously poor were exempted, and subject only to a small exaction from the peons and guards. The amount of the annual collections of Government at those inlets is estimated at from 2½ to 5 lakhs of rupees."

"The offerings given within the walls of the temple by the pilgrims to the priests and officers of Juggernaut are exclusively for the expenses of the temple, and its establishment of officers, &c.; besides which, the temple has attached to itself, for its support, land rents to a considerable amount, and at the annual celebration of two particular festivals, the extra expense is defrayed by Government; this may amount to from 30,000 to 40,000 rupees annually."

"For the management of the land rent attached to the temple, and in fact for the general superintendence of the receipts and disbursements, and some other controlling authority respecting the regular discharge of the respective duties of the officers attached to the temple, a person is always appointed and resides on the part of the Government. The person of this description who resided on the part of the Mahratta Government fled a few days previous to our arrival."

"I ascertained, by personal conversation with the head Brahmin of the temple, that the necessary duties could for a short time be properly carried on without the appointment now mentioned, and many reasons occurred to my mind for deferring this appointment, one of the first of which was, I was decidedly of opinion an appointment so important in all its consequences and relations ought to be made by the supreme authority itself."

12. Receiving no immediate answer to this application, Mr. Melville repeated it in still more explicit terms on the 23d October following.

"I am anxious to receive the commands of his Excellency the Most noble Marquis Wellesley, in answer to my letter of the 26th ultimo, respecting the appointment of the



Dewul Purcha, or person on the part of the Government who has the control of the receipts and disbursements, &c. of the temple of Juggernaut. Sewajee Pundit, the person who last represented the Mahratta Government in that situation, has lately asked permission to wait upon me, but I declined his visit.

"I wish also to receive his Lordship's instructions on the subject of continuing the system of making collections from the pilgrims to the temple of Juggernaut; and on this occasion, after the most mature deliberation, I venture to propose the continuance of those collections, under positive restrictions that not an anna even shall ever in any shape be taken from any pilgrim except those denominated Laal Jautries, an appellation which they willingly take to themselves as exempting them from the disgrace of being considered indigent. The annual collections may be expected to amount to from two or three lacs of rupees; and I consider the established checks as affording fair security against embezzlement."

13. The reply given to these references, on the 1st November 1803, was as follows:

"I am directed by his Excellency the Most noble the Governor-general to acknowledge the receipt of letters from Mr. Melville, under dates the 26th September and 23d October, and to communicate to you his Excellency's instructions on the points referred by Mr. Melville in those letters for the orders of the Governor-general.

"On the subject of the restoration to office of Sewajee Pundit, the person who controlled the receipts and disbursements of the temple of Juggernaut under the Mahratta Government, I am directed to observe that in the opinion of his Excellency, that measure is calculated to confirm the confidence of the Brahmins and officers of the temple of Juggernaut in the liberality and protection of the British Government. On the other hand, the restoration of the officer who exercised the superintending authority at Juggernaut under the Mahratta Government, may possibly open a channel of intrigue with the enemy, eventually injurious to the British interests. If however you should be of opinion that this objection is ill-founded, and that Sewajee Pundit by character and ability is duly qualified for the trust, you are authorized to restore him to the station which he held. In any other case you will report the circumstances for the information of his Excellency the Governor-general and await his Excellency's final orders on the subject.

"With regard to the question of continuing the system of making collections from the pilgrims to Juggernaut, which was practised under the Mahratta Government, I am directed to inform you that if those collections have ceased since the occupation of Juggernaut by the British authority, the Governor-general does not wish that those collections should at present be renewed. If the collections should not have ceased, they are to continue under the superintendence and control of the civil local authority.

"I am further directed to observe that it is impracticable to form a final arrangement for the regulation of the temple of Juggernaut, until the Governor-general shall have been furnished with a detailed statement of the system of management which has hitherto prevailed in that temple, and his Excellency accordingly directs that you will transmit that information at the earliest practicable period of time."

14. The Commissioners replied, "We do not find, after the most diligent inquiry, the character of Sewajee Pundit sufficiently respectable to make it appear to us desirable that he should continue long in the office of Dewul Purcha in the temple of Juggernaut; but as some person in that capacity is immediately wanted to keep the different establishments of the temple from falling into confusion, we have given the temporary charge to Sewajee Pundit, on his promising to act justly and faithfully, and that he will in the space of 20 days deliver to us all the accounts of the temple for one whole year; and we are in hopes that in those accounts materials will be found for preparing the information sought for by his Excellency the Most noble the Governor-general."

15. The order published by the Commissioner on this occasion identifies the Government most closely with the institution at Juggernaut, and proves incontestibly the views entertained by that authority, of the position which the British Government ought to hold in relation to the temple, and the understanding on which the concurrence of the Brahmins had been obtained to the peaceable occupation of the country.

"Be it known to the Dewul Kurun and Sewaks (or officers and servants) of the 36 departments of the Sree Temple of the Juggernaut Jeeo, that whereas it has come to our knowledge that from the want of a Dewul Purcha on the part of the English Company in the temple of Sree of Juggernaut Jeeo, much confusion has arisen in the service of the temple, and in the performance of the duty of the Cole Boge, &c. in the service of Sree Jeeo above mentioned; therefore Sewajee Anketes, the former Dewul Purcha, has now been appointed and proceeds to the temple aforesaid; it is therefore ordered that according to former custom, it is incumbent on you to be present with the Purcha before mentioned, and with contented minds to attend at the fixed times the service of Sree Jeeo. On this subject be particularly attentive."

16. Before the detailed information could be collected for which the Government had called, to assist it in deciding upon the proper arrangements to be made for the future management of the temple, the Commissioners found themselves called on by the Brahmins, in virtue of previous negotiations, and, as it would appear, according to the responsibilities of its predecessors in respect to the temple which the British Government had purposely assumed, to disburse, as had been done by former Governments, the usual sums required for the expenditure of the ceremonies. The Commissioners therefore addressed the Government in the following terms:

"We have the honour to acquaint you, for the information of his Excellency the Most noble the Governor-general, that repeated petitions and applications have been made to us by the officers and priests of the temple of Juggernaut, requesting the renewal of the toll  
which

which has under all the former Governments in Cuttack, been levied on pilgrims arriving at Juggernaut.

"It appears that heretofore the sum of 11 rupees was levied by Government on Laal Jatrees, or pilgrims of a certain class and description, on their reaching Juggernaut, previous to their arrival at the temple, where a further sum of two rupees was given to the officers of the temple, making the whole sum 13 rupees.

"The 11 rupees collected by Government was supposed to constitute a fund by which the state was reimbursed for the heavy charges incurred by Government in the support of the pagoda; and although the annual amount of the expenses defrayed by Government was very great, the yearly revenue arising from the toll on the pilgrims did more than cover the ordinary expenditure; the building itself, however, must be supposed subject to decay, and the overplus might be considered a source from which demands incidental to its renewal were to be defrayed.

"We have been applied to for the customary advance of 16,000 rupees, to provide supplies of rice and ghee, &c. for the consumption of the priests and their families, and of the pilgrims during their residence at Juggernaut, at the approaching festival. If these donations are denied, it is to be apprehended, in addition to the great distress it will occasion, that the pagoda will be deserted; and if those disbursements are continued without establishing the former resources to meet so heavy an expenditure, we beg to be honoured with the commands of his Excellency the Most noble the Governor-general for the appropriation of the required sum from the territorial revenue of the province.

"It is further our duty to submit to the consideration of his Excellency the Most noble the Governor-general, not only the expediency but the policy of renewing the tax on pilgrims proceeding to Juggernaut. In this view of the subject it appears that the priests and officers of the pagoda would be highly pleased with the renewal of a certain source of revenue, on which their livelihood depends; and it is not on the other hand unreasonable to suppose they have considerable doubts at present as to the continuance of donations to so large an amount, whilst no apparent provision is made to meet that expenditure.

"On these grounds we beg leave strongly to recommend the renewal of the tax on Laal Jatrees, under the strictest regulations, to secure its being levied with every degree of mildness, humanity, and care."

17. It seems to be established by this last letter, agreeably to the whole tenor of the previous proceedings, that in the opinion of the two parties to the negotiation which had preceded or accompanied the advance of the British army, the Commissioners namely on the one side, and the Juggernaut Brahmins on the other, the British Government had taken up a position which authorized the priests to look to it as a matter of course, for the full amount of pecuniary assistance which they had been accustomed to receive from their own national governors.

18. The Bramins, with characteristic suspicion, were doubtful whether the English would keep faith on this vital point, and were eager that by the re-establishment of the tax levied by former Governments on the pilgrims, the interests of the new rulers might be brought in aid of their veracity, their former promises renewed and corroborated, and as it were a public and manifest seal set to the engagements into which they had already avowedly entered. The Commissioners on their part expressed no doubts of the responsibility of Government, but on the contrary treated it as a matter of indispensable obligation; and it was evidently on that account, and as having actually incurred on the part of Government the liability to provide these funds, that they readily adopted the suggestions of the Bramins as to the source from which reimbursement might be secured.

19. To this appeal the Government thus replied, under date 4th May 1804:

"In his Excellency's instructions to you for the establishment of the authority of the British Government in the province, he directed that all the collections levied on the pilgrims proceeding to Juggernaut should be abolished. Great oppressions had been exercised by the Mahratta Government in levying these collections, and it was impracticable to inquire into them, or to reform them, during the progress of the British army in the conquest of the province; his Excellency in Council, therefore, judged it to be preferable to order a general abolition of these duties in the first instance, instead of attempting to regulate them under the principles of their original establishment, leaving it for future consideration whether these duties should be wholly or partially established under a better regulated system of collection. From the information received from the First Commissioner on this subject, his Excellency in Council is satisfied that it will be, in every point of view, advisable to establish moderate rates of duty or collection on the pilgrims proceeding to perform their devotions at Juggernaut. Independently of the sanction afforded to this measure by the practice of the late Hindoo Government in Cuttack, the heavy expense attendant on the repair of the pagoda, and on the maintenance of the establishment attached to it (which has always been defrayed by the government of the province), render it necessary, from considerations connected with the public resources, that funds should be provided for defraying this expense. His Excellency also understands, that it will be consonant to the wishes of the Brahmins attached to the pagoda, as well as of the Hindoos in general, that a revenue should be raised by Government from the pagoda. The establishment of this revenue will be considered, both by the Brahmins and the persons desirous of performing the pilgrimage, to afford them a permanent security that the expenses of the pagoda will be regularly defrayed by Government, and that its attention will always be directed to the protection of the pilgrims resorting to it, although that protection would be afforded by the Government under any circumstances. There can be no objection to the British Government's availing itself of these opinions for the purpose of relieving itself from a heavy

annual expense, and of providing funds to answer the contingent charges of the religious institutions of the Hindoo faith maintained by the British Government. His Excellency in Council therefore desires you will proceed without delay to establish duties to be levied from the pilgrims proceeding to Jug-gernauth, taking the advice of the principal officiating Bramins attached to the pagoda, as to the rates which may be collected from the several descriptions of pilgrims without subjecting them to distress or inconvenience. Previously, however, to the collection or arrangement of any duty on pilgrims proceeding to Jugger-nauth, you will report the rates of duty, and the rules under which you may propose to levy them, for the consideration of the Governor-general in Council, under whose further orders you will be empowered to regulate this important question."

20. The answer of the Commissioners, reporting, as was required of them, the rates of tax proper to be levied from the pilgrims, cannot be traced; but it must have been at some period considerably later in date than the last letter, for it was not until 1806 that the legislative Act was passed by which the tax was established, and which was doubtless framed in accordance with the Commissioners' suggestions.

Sec. 30, Reg. XII.  
1805.

21. In the meantime, however, viz. on 5th September 1805, Regulation XII. of that year was passed; in which, without any reference to the tax, not then established, the donation to the temple is distinctly called "The established donation for the support of the Temple of Jugger-nauth;" and is at the same time expressly excepted from the operation of the laws regarding the resumption of religious pensions and allowances generally.

22. It appears, therefore, from the facts above stated, that when the British Government undertook to provide funds, in the shape of an annual donation for the contingent expenses of the temple, it never was intended that the said donation should be a charge on the general revenues of the country, but was agreed to, as had been done by the preceding native governments, for the purpose of providing the temple with the means of defraying the expenditure of the ceremonies, on the understanding that the state was to be reimbursed by the revival of the pilgrim tax. Such being the circumstances of the case, the Deputy Governor is clearly of opinion that when, by Act No. X. of 1840, the Government of India resolved that the tax should be relinquished, and the temple, with all its concerns, delivered over to the Raja of Khoorda and the priests, with no responsibility whatever, except to the established tribunals, we might, with perfect fairness and propriety, have required that we should in future be relieved from the payment of the donation in question, and he has not the slightest doubt that the parties above named, on condition of getting the whole management into their hands, would joyfully have agreed to such an arrangement.

23. The question is now somewhat complicated. Unfortunately Lord Auckland took a different view of the question, and considered that we were pledged to the continuance of the donation, under the erroneous supposition that the pledge could not be got rid of without a breach of faith, and it is the assurance implied by the donation having been continued since the tax was abolished, and not any original promise that it should be everlasting, which, in the Deputy Governor's opinion, now constitutes the difficulty. His Honor deeply regrets that the plan of the President in Council for getting rid of all connexion with the temple at once was not adopted. The object originally in view was no doubt to secure the peaceable possession of the province, by conciliating the people in general, and by removing from them all apprehension of any design on our part to interfere with their religion; but it was fully understood by all parties that we were not to be losers by the measure, and that we were to be reimbursed by the collections from the pilgrims. When, however, the means of reimbursement no longer existed, in consequence of the boon granted to the Hindoo community at large by the abolition of the tax, and the parties in charge of the temple had before them the prospect of a great influx of pilgrims, and a still greater influx of offerings, it appears to the Deputy Governor that it was neither necessary nor proper, nor consistent with the object in view, that the donation should be continued.

24. It will be for higher authority to determine whether or not, as the case at present stands, the donation in question (now reduced, by the relinquishment of the Satais Huzaree estate, to 36,178. 12. 2.) can with propriety be resumed; but if it cannot, means might be devised less objectionable than the present system for keeping faith with the Bramins, and yet severing more completely that connexion with the institution which has caused such just animadversion. Much of the resources of the temple is in land, managed by its own officers, and with which, after the completion of arrangements now in progress, the Government servants will in no way interfere. It might be possible to convert the present money donation into land, and thus get rid for ever of all connecting ties with the institution and its officers; at all events, the experiment is worthy of consideration; and should it meet with the approbation of his Lordship in Council, the Deputy Governor will, without delay, enter upon such inquiries as may be necessary with a view to the execution of the project.

Fort William,  
11 March 1844.

I have, &c.  
(signed) *Fred. Jas. Halliday*,  
Secretary to the Government of Bengal.

(No. 578.)

From Under Secretary to the Government of Bengal to the Officiating Secretary to the Sudder Board of Revenue; dated Fort William, 29 May 1843.

Revenue.

Sir,  
I AM directed by the Honourable the Deputy-governor of Bengal, to forward to you th accompanying original letter, No. 35, dated the 24th instant, together with copy of a despatch

despatch from the Honourable the Court of Directors, and a printed publication received from the Officiating Secretary to the Government of India, in the Home Department, and to request that the Board will be pleased to furnish to this department the information called for by the Honourable Court relative to the temple of Juggernauth.

2. The return of the original papers, with your reply, is requested.

I have, &c.  
(signed) *C. Beadon*,  
Under Secretary to Government of Bengal.

(No. 740.)

From Under Secretary to the Government of Bengal to the Officiating Secretary to the Sudder Board of Revenue; dated Fort William, 24 July 1843.

Sir,  
I AM directed by the Honourable the Deputy-governor of Bengal to request that the information called for under orders, No. 478 of the 29th May last, relative to the temple of Juggernauth, may be furnished with as little delay as possible.

Revenue.

I have, &c.  
(signed) *C. Beadon*,  
Under Secretary to Government of Bengal.

(No. 270.)

From the Officiating Secretary to the Sudder Board of Revenue to *F. J. Halliday*, Esq., Secretary to Government in the Revenue Department of Bengal, Fort William; dated Fort William, 4 August 1843.

Sir,  
WITH reference to your letter, No. 740, dated 24th ultimo, I am desired by the Sudder Board of Revenue to inform you, that it appeared, after considerable research, that the records of the Board's office did not enable them to answer satisfactorily the inquiries of the Honourable Court relative to the temple of Juggernauth, as communicated by your letter, No. 578 of the 29th of May last, and as it further appeared that the required records had probably been transferred to Cuttack on the 29th of December 1818, the Commissioner was instructed to favour the Board as early as practicable with all the information his office affords, and which he might be able to obtain from other credible sources, forwarding with his report such records, in original, of his office as would throw light upon the subject of the Honourable Court's inquiries.

Mis. Dept. Present,  
*J. Pattie* and *J. Louis*, esqrs.

2. On receipt of the Commissioner's report, no time shall be lost in replying to your former letter, and should that report not be received by the 15th instant, the Commissioner will be reminded to expedite his answer.

I have, &c.  
(signed) *Geo. Plowden*,  
Officiating Secretary.

(No. 948.)

From Under Secretary to the Government of Bengal to Officiating Secretary to the Sudder Board of Revenue; dated Fort William, 9 October 1843.

Sir,  
I AM desired to request that you will solicit the Board's attention to my letters noted in the margin, and that the information called for relative to the temple of Juggernauth, may be furnished at an early date.

Revenue.  
No. 578, dated 29th May.  
No. 740, dated 24th July.

I have, &c.  
(signed) *C. Beadon*,  
Under Secretary to Government of Bengal.

(No. 350.)

From the Officiating Secretary to the Sudder Board of Revenue to *F. J. Halliday*, Esq., Secretary to the Government of Bengal, Revenue Department; dated Fort William, 27 October 1843.

Sir,  
WITH reference to my letter, No. 270, dated the 4th of August, I am now directed by the Sudder Board of Revenue to reply fully to your letter, No. 578, dated the 29th of May, conveying a communication in original, No. 35, dated 24th idem, from the Home Secretary to the Supreme Government, together with its accompanying copy of a despatch from the Honourable the Court of Directors, dated the 4th of April preceding, and a printed publication

Mis. Dept. Present,  
*J. Pattie* and *J. Louis*, esqrs.

cation respecting the present state of the temple of Juggernaut, and requesting the Board to furnish the information called for by the Honourable Court on that subject.

2. My former letter, No. 270 above mentioned, intimated that as their records did not enable the Board to answer satisfactorily the inquiries of the Honourable Court, they had been necessitated to call upon the Commissioner of the Cuttack division to furnish all the information to be derived in his office, and also whatever further intelligence he might be able to obtain from other credible sources.

No. 1,948.

3. Mr. Mills' reply, dated 26th of August, and received on the 3d ultimo, is herewith submitted in original, and the Board proceed to notice *seriatim* the inquiries made of them, copying them for greater convenience of reference on the margin.

Firstly, the specific ground on which it was stated in Lord Auckland's Minute of the 17th of November 1838, "our promise of the allowance for the support of the temple is distinct and unconditional."

4. Mr. Mills' report shows that with laudable attention to the orders he received, he has employed the utmost research to obtain information on this head, but he has not succeeded in discovering (nor have the Board after a careful examination of their records) on what specific ground Lord Auckland's statement was made. Mr. Mills has however brought together a variety of evidence, affording, in his estimation, conclusive proof of the correctness of that statement, and of his own concurrent opinion that the Government are bound in faith and justice not to discontinue the payment of the established donation for the support of the temple.

5. The following is a summary of the evidence in question:—

Para. 4.

1stly. The accounts rendered by the officers of the temple for the two years preceding the accession of the British power, show that it was the practice of the Mahratta government to make good the annual deficiency in the receipts as compared with the disbursements from the state treasury, and the practice was continued for some years by the British Government.

2dly. The instructions issued by the Governor-general in Council,\* when a British army was formed in 1803 to occupy the province of Cuttack for the guidance of the commanding officer, Colonel Harcourt.

3dly. Colonel Harcourt, on the march to Cuttack, addressed a letter from Manikpattum to the Brahmins of the pagoda of Juggernaut, "encouraging them to place the pagoda under the protection of the British."†

4thly. The interference and authority exercised on the part of Government upon the acquisition of the province, in the superintendence and management of the temple and its concerns, shown in defraying the expenses necessary to its support, aiding for the due performance of the ceremonies, checking the accounts, and instituting inquiries with the view of arranging for the permanent regulation and support of the temple, and raising a revenue to meet its expenses.

5thly. The declaration enacted in Regulation XII. of 1805.‡

6. After the most attentive and deliberate consideration of the circumstances above stated, and the arguments which Mr. Mills has deduced from them, the Board arrive at a conclusion different from that of the Commissioner. They have endeavoured to examine the question of "Pledge or no pledge," abstractedly and apart from all religious consideration, and they have no hesitation in declaring that they cannot find that the Government have ever bound themselves by any pledge, conditional or unconditional, not to discontinue the allowance paid to the temple. On the contrary, to the conviction of the Board, there is nothing in the information before them which shows that that allowance has had any other origin or character than that of a boon gratuitously bestowed and continued, and they are clearly of opinion that the Government payment might fairly and honestly have stopt simultaneously with the abolition of the pilgrim tax.

7. A glance at the history of the period, supported as it is by the information given by Mr. Mills, as derived from his records and other sources, shows that there was no political necessity for any pledge. The conquest of Cuttack from the Mahrattas in 1803, was a very easy achievement, being rather a cession than a conquest, and any pledge, had such been

\* "To employ every possible precaution to preserve the respect due to the pagoda and to the religious prejudices of the Brahmins and pilgrims." He was desired "not to disturb the actual system of collections at the pagoda," but was at the same time interdicted from "contracting any engagements which would limit the power of the British Government to make such arrangements with respect to the pagoda, or to introduce such a reform of existing abuses and vexations as might hereafter be deemed advisable." "To assure the Brahmins that they would not be required to pay any other revenue than that which they had been in the habit of paying, and that they would be protected in the exercise of their religious duties."—*Marquis of Wellesley's Despatch*, vol. iii. p. 269, para. 6.

† *Marquis Wellesley's despatch*, vol. iii. p. 374, paras. 7, 8, 9. Authorities quoted:—Commissioner's letter to collector of Juggernaut, dated the 2d of June 1804; Commissioner's letter of the 3d of July 1804; Commissioner's letter of the 11th March 1805; Government reply to Board's letter 17th June 1806.

‡ Provided also, that nothing therein contained shall be construed to authorize the resumption of the established donation for the support of the temple of Juggernaut, the charitable donation to the officers of certain Hindoo temples called Annoo Chuttree, and the allowance granted for the support of the Hindoo temple at Cuttack called Seetaram Takhoor Barree.

Nothing contained in this Regulation shall be construed to authorize the resumption of the rents of any lands assigned under grants from the Raja of Berar, or from any zemindar, talookdar, or any actual proprietor of land in the zillah of Cuttack, as endowments of the temple of Juggernaut, or Mutta, in the vicinity of that temple, or for similar purposes; provided, however, that any fixed quit-rent which the holders of such lands are bound to pay by the conditions of their grants shall continue to be paid agreeably to former usage.

been given, must therefore have been altogether gratuitous; for nothing was or could have been given in return. But this point the Board observe is not left to depend on conjecture, for Lord Wellesley's instructions to Colonel Harcourt, as quoted by Mr. Mills, expressly interdicted him from contracting any engagements, and allowed him to promise only that the Brahmins should not be required to pay any other tribute or revenue than they had been in the habit of paying, and that they would be protected in the exercise of their religious duties; and thus the chief circumstance adduced by Mr. Mills to establish the existence of a pledge affords, in the Board's judgment, the most powerful argument against any engagement having been contracted.

8. Having then got the province free of pledge, as it is certain we did, has the Government since the acquisition given any pledge? The Board are of opinion that it has not, and that the passages quoted from Regulation XII. of 1805 by Mr Mills, on which he lays so much stress, holding the small portion taken from section 30\* to be quite conclusive as to the perpetual condition of the established donation, cannot be so construed.

Sec. 8, and concluding portion of sec. 30.

9. Section 8, the Board remark, has reference only to lakhiraj lands and would appear to be quite beside the present question. The other passage from section 30 has reference to pensions, and mentions the established donation for the support of the temple of Juggernath, which it exempts from the operation of the law of 1793, relating to pensions, extended to Cuttack by the said section, and of the other rule, defining under what circumstances and conditions pensions shall be considered hereditary or only life grants therein enacted. It is therefore manifest that the only argument to be derived from the passage quoted by Mr. Mills, in connexion with the remainder of the section, is, that Government did not at that time intend to resume the donation, and not that a promise or pledge was given to continue the Government payment in perpetuity. The Board entertain no doubt whatever that the Government, with perfect consistency, propriety and justice, could have discontinued the donation simultaneously with the abolition of the tax on pilgrims.

10. It is true that the allowance is styled an "established donation." But an "established donation" and a donation in perpetuity, are, the Board remark, widely differing terms, the former being merely indicative of a boon having been conferred indefinitely, and the other marking specifically its duration; and it is on this point especially worthy of remark, that the whole history of the donation, from the time of the Moguls to the period of the correspondence quoted in paragraph 9 of Mr. Mills' report, places it in connexion with the tax on the pilgrims. Hence we see that the mention of the established donation in section 30 is followed in section 31 by the special retention of the tax which was exempted from abolition with the sugar duties of the province, and in the following year, 1806, the mode of collecting it was arranged and the tax legalized. The Board consider that the words "established donation" have manifestly reference only to the donation having existed previous to the acquisition of the province by the British Government, and that its payment was always defrayed from the tax on pilgrims; the donation and the tax being two ingredients of one and the same system, established by preceding native governments, and not originating with or ever confirmed in perpetuity by the British Government; and it follows that the tax having been abolished, the payment of the donation made from the tax ought of necessity to stop: but whether in that case the Brahmins should not be allowed to take the tax from the pilgrims who voluntarily resort to the temple, the junior member thinks may be a question. The senior member considers that the system now pursued of not allowing any other payments than donations by the pilgrims should not be altered, and the information he has obtained induces him to believe the collections have, since this restriction has existed, been more considerable than at any previous period.

1806, A. D.

11. Mr. Mills has not been able to trace, nor have the Board, the authority under which the established donation was first granted, nor the exact period during which it has been paid; but from the correspondence and other authorities quoted in Mr. Mills' narrative, it appears probable that it was continued and paid by the British Government from the commencement of its connexion with the province, conformably to the practice of the Mahratta Government. The amount during the Mahratta rule and the first years of the British Government, appears to have been variable and dependent on the receipts, the practice having been to check the accounts and make good from the State Treasury the excess in the disbursements over the receipts. But in 1807 the inquiries made by Mr. Webb, the collector of Cuttack, under instructions from the Government, showed the average expenditure for six years, (that is, for two years of the Mahratta rule, and four of the British Government), to have been 65,999 sicca rupees, and at his recommendation, after he had disallowed various charges, the amount to be disbursed by Government was fixed at 56,342 sicca rupees, exclusive of broad cloth for decorating the cars, the receipts of every kind being computed at 30,884 sicca rupees, and the deficit at 25,458 sicca rupees.

Secondly, the authority under which the established donation for the support of the temple of Juggernauth, mentioned in Regulation XII. of 1815, sec. 30, was first granted, or the period during which it may be known to have been received, and its amount.—Paras. 12 & 13.

12. The Commissioner replies, certainly not; and gives the following abstract taken from a statement, No. 8, prepared in 1805 by Mr. Græme, the collector, which shows the temple to have been possessed of other resources under various heads, besides its landed endowments:—

Did "the lands belonging to the temple" ever constitute "the only known endowment pertaining to it?"—Para. 14.

\* Provided also, that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of Juggernauth, the charitable donation to the officers of a certain Hindoo temples called Annoo Chuttree, and the allowance granted for the support of the Hindoo temple at Cuttack, called Seetaram Takoor Barree.

† See Paras. 9 & 10 of Mr. Mills' Report.



	Jummah of 1211 Kabuns of Cowries.	
Mouzahs or villages, comprising the Sataees Hazaree Mehal - - - - -	47,393 13 -	11,848 7 3
Rent-free lands in small portions - - - - -	630 - -	157 8 -
Khunjah or money assignments of pergunnahs in the Mogulbundee - - - - -	68,711 - -	17,177 12 -
Khunjahs or claims on the rent-free lands and villages in the Mogulbundee - - - - -	29,107 12 15	7,276 15 2
Resources of the temple under various heads, viz. poll tax, custom duties, intestate property, &c. -	42,533 12 6	10,638 7 1
Khunjahs in certain killahs - - - - -	3,113 8 -	778 6 -
	1,91,509 14 1	Sic. Rs. 47,877 7 6 or Co's. Rs. 51,069 4 3

And upon every "Lall Jattrie" 15 annas.

Is the trade of the Purharees or pilgrim hunters sanctioned by the Government, and is the authority of the police employed to impress the labouring classes to drag the car at Juggernauth?—Paras. 17 & 18.

Is the superstition at Juggernauth, under the arrangements now sanctioned, "flourishing beyond all experience?"—Para. 19.

What is the probable loss of life annually among the pilgrims?—Para. 20.

13. The Commissioner emphatically contradicts, on his own part, as superintendent of the police of the district, and on the part of the magistrate, the statements of the pamphleteer on these two heads, declaring them to be entirely without foundation.

14. The Commissioner states that the abolition of the tax has, without doubt, added to the number of the pilgrims, but in no other respect has the splendour of the ceremonies been augmented.

The Commissioner replies that it is difficult to form a guess with any approach to accuracy on this head, but he considers 50,000 per annum to be a grossly exaggerated estimate. The civil surgeon computes the deaths among the pilgrims at Pooree during the last three years at 484 annually, but this calculation is exclusive of the mortality at the last Rut Jattria, when it is reckoned that about 700 pilgrims died out of 50,000 who attended the festival.

16. Finally, the Board desire me to notice that there appears to be a little misapprehension in the concluding remarks of Mr. Mills' report. It is there stated that the abolition of the tax on pilgrims has given satisfaction, but that the body of the Hindoo population are dissatisfied with that part of the arrangement which vested the superintendence of the temple in the Rajah of Khoordah, and withdrew the interference of Government in the management of its concerns.

17. The only reason assigned for the objection of the people to a superior possessing hereditary right to fulfil the duties which have been assigned to him, is that they consider him to be a "thrifty character, who endeavours to limit the expenditure to the lowest possible amount, in order that he may appropriate the surplus to his own use." But this objection, the Board remark, appears to be satisfactorily contradicted by the statement made in a former part of the Report, that there is an undoubted increase in the number of pilgrims resorting to the temple, and no diminution in the splendour of its ceremonies.

18. The Commissioner has not shown, the senior member bids me observe, that the withdrawal of our interference with the temple has interrupted the just administration of its affairs; and that our interference "increased the celebrity of the temple," may be doubted, or its discontinuance would have diminished and not increased the number of pilgrims. But, be that as it may, it is, the senior member remarks, beyond question true that the native population have considered our interference an homage paid to their temple; and it therefore has been highly derogatory to our political character, and must have lessened their respect for us as their rulers.

Sudder Board of Revenue.

I have, &c.  
(signed) G. Plowden,  
Officiating Secretary.

P.S.—The Board requested that Mr. Mills' report might be accompanied by such records, in original, of his office, as would throw light upon the subject of the Honourable Court's enquiries; but his Honor will perceive from the postscript to Mr. Mills' letter, that being bound up in books with other miscellaneous correspondence, they could not conveniently be sent.

N.B.—The enclosures of your letter are herewith returned.

(True copies.)

(signed) Cecil Beadon,  
Under Secretary to the Government of Bengal.

(No. 1,943.)

From the Commissioner of the Cuttack Division to the Secretary to Sudder Board of Revenue.

Sir,

Fort William, dated Cuttack, 26 August 1843.

Miscellaneous.

I HAVE the honour to acknowledge the receipt of your letter, No. 114, dated 28th ultimo, with its enclosures, respecting the temple of Juggernath and the connexion of Government therewith, and in reply to submit such information as I have been able to collect, from the most credible sources, on the points specified in the Honourable Court's despatch. To throw light on these points it is necessary to give a succinct history of the origin of the temple and tax.

The temple of Juggernath was built in the year 1128 A.D., in the reign of Rajah Anung Bhirur Deo, "who was," says Sterling, "the most illustrious of all the Gujapate princes of Orissa," at a cost of from 40 to 50 lacs of rupees. It became one of the most celebrated places of worship in India, and was supported, local tradition relates, by the Hindoo government, on a scale of extraordinary splendour.

The Moguls, who conquered the country early in the 16th century, persecuted the Hindoos with peculiar rigour; and Sterling states: "this religious warfare was at last set at rest by the institution of the tax on pilgrims,\* which, if we may credit the author of the work translated by Gladwin, under the title of 'History of Bengal,' yielded to the Mogul Government a revenue of 9 lacs."

The Mahrattas, who succeeded the Moguls, levied the tax, and supported the temple with becoming munificence. They took the superintendence of its affairs under their own control, and paid every attention to the due appropriation of its assets, agreeably to the intentions of the donors.

Mr. Græme's Report, dated 10th June.

I find from the accounts which were rendered by the officers of the temple for the two years preceding the accession of the British power, that in 1801-1802 the sum of kahuns 97,132. 10. 15., equal to sicca rupees 24,283. 6. 3.; in 1802-1803, kahuns 87,228. 10. of cowries, or sicca rupees 21,807. 2. 2. was disbursed by the Mahratta government, to cover the deficit of the receipts over the disbursements. The practice of the Mahratta government was to have the accounts of receipts and disbursements annually adjusted, and to supply the deficiency from its own treasury; and this practice was continued for some years by the British Government. The allowance, there can be no question, was considered permanent, though the amount was variable.

When a British army was found in 1803 to occupy the province of Cuttack, the Governor-general in Council instructed the officer commanding to "employ every possible precaution to preserve the respect due to the pagoda, and to the religious prejudices of the Brahmins and pilgrims." He was desired "not to disturb the actual system of collections at the pagoda," but was, at the same time, interdicted from "contracting any engagements which would limit the power of the British Government to make such arrangements with respect to the pagoda, or to introduce such a reform of existing abuses and vexations as might hereafter be deemed advisable." He was also directed to "assure the Brahmins that they would not be required to pay any other revenue or tribute than that which they had been in the habit of paying, and that they would be protected in the exercise of their religious duties."

Marquis of Wellesley's Despatches, vol. iii. p. 269.

On the 14th of September 1803, Lieutenant-colonel Harcourt occupied Manickpatam; and from that station addressed a letter to the brahmins of the pagoda of Juggernath, "encouraging them to place the pagoda under the protection of the British." On the 16th a favourable answer was received, and a deputation went to the camp to claim protection. On the 18th the army encamped *en route* to Cuttack, at Juggernath.

Marquis of Wellesley's Despatches, vol. iii. p. 374.

On the 14th of October the fort of Cuttack was taken, and the Commissioners for the affairs of the province, Colonel Harcourt and Mr. Melville, deputed Mr. Hunter to Juggernath, to collect the revenue of that division of the country, and to superintend the temple concerns. On the 2d of June 1804 they appointed "an important, disinterested person, Gobindo Rai Mahasoy, to assist him in managing the affairs of the temple." The collector was instructed to implicitly follow the established and approved usages, and to confine his interference and authority within the limits of that which might appear to have been the practice of the former government.

Commissioner's letter to collector of Juggernaut, dated the 2d of June 1804. Commissioner's letter of the 8d of July 1834.

The Government temporarily abolished the pilgrim tax soon after taking possession of the country, "because the Mahratta government had exercised a great oppression in levying the collections, and it was expedient to postpone the collections arising from those sources until a system of collection, void of oppression and inconvenience, could be arranged;" but at the same time authority was given the collector to incur the expenses necessary for the support of the temple, "on the scale on which it was maintained during the late Mahratta government." Advances of cash were made on the part of Government, at the usual proper periods of time; every aid was afforded in the preparation of the Rut, and detailed Jummah Khuruch accounts were submitted, at the close of each year, for the approval of the Commissioners.

Commissioner's letter, dated 11th of March 1805.

Government reply to Board's letter, 17th of June 1806.

Commissioner's letter, dated 11th of March 1805.

The

\* In Elphinstone's History of India, p. 326, book ix. it is stated that Akbar abolished all taxes on pilgrims.



The Commissioners, on the 11th of March 1805, directed the collector, Mr. C. Græme, to proceed to Juggernaut, "for the purpose of obtaining information in regard to the establishment and customs thereof," in order, they remark, "that suitable arrangements might be adopted for the permanent regulation and support of the important religious institution of the temple of Juggernaut." They further observed, "that the establishment of a moderate rate of collecting the duties on the pilgrims proceeding to and from their devotions at Juggernaut is, in every point of view, highly desirable and proper, as well as from the circumstance of its affording the Brahmins and other persons desirous of performing the pilgrimage, confidence and security, in the idea that the expenses of the pagoda will be regularly and permanently defrayed by Government; and that its intention will always be directed to the protection of the pilgrims resorting to it, as the heavy expense attendant on the repair of the pagoda, and in the maintenance of the establishment attached to it, which has always been defrayed by the Government of the province, render it necessary, from considerations connected with the public resources, that funds should be provided for defraying the expense.

Mr. Græme's report is dated the 10th of June 1805, and contains full and complete information on the custom of the former Government in levying and collecting duties upon pilgrims, the different ceremonies performed within the temple, and the resources and revenue thereof. The Commissioner's address to Government is not forthcoming in this office; but Regulation XII. of 1805 was passed on the 5th of September following, and contained the emphatic declarations noted below.\* We conquered the country with so little difficulty, by conciliating the people, particularly the Brahmins of Juggernaut; and a promise to take the place of the late Government, in respecting and affording every aid towards the support of their establishment, customs, and usages, and the maintenance of their temple, and especially Juggernaut, is, I maintain, implied in the instructions issued by the Governor-general in Council for the guidance of Colonel Harcourt. Our acts, after we had possession of the country, did not belie that promise; we not only supported the institution with pecuniary donations, but interfered in the details of the disbursements, and in the internal economy and administration of the temple (Consultation of the Board of Revenue of the 5th August 1806); and, so far as words are binding, Government bound itself, by the declaration first quoted, to pay the donation which the late Government appropriated to the support of the temple; and, so far as human justice is to be regarded, our violation of the pledge seems to me beyond all power of explanation.

Sudder Board's  
letter, 2d of Decem-  
ber 1836.

I may here state, that the allowance granted for the support of Seetaram Takoos Barea, and certain Hindoo temples called Anoo Chuttree, are still paid; and it has been formally decided by Government that it cannot be resumed.

Secondly, the authority under which "the established donation for the support of the temple of Juggernaut," mentioned in Regulation XII. of 1805, was first granted, or the period during which it may be known to have been received, and its amount.

The Governor-general in Council authorized the Commissioners to defray the expenses of the temple; the date of authority I cannot trace; but the Government in Council, in reply to the Board's address to Government of the 17th of June 1806, were pleased to observe as follows: "In authorizing the collector to incur the expenses necessary for the support of the temple, it was of course to be understood, that such authority had reference to the expenses incurred for the purpose during the late Mahratta Government."

But to continue the narrative. On the 14th of June 1807, the Governor-general in Council, "in consequence of the unsatisfactory accounts rendered by the collector of the receipts and disbursements, and the very imperfect information obtained, at the expiration of so long a period, of the resources of the temple," vested the superintendence of the collection of the tax and of the temple in the collector of Cuttack, and directed that officer (Mr. Webb) to bring up the accounts of the receipts and disbursements of the temple, and to make a full inquiry respecting the lands assigned for its support. This information was supplied in Mr. Webb's report of the 19th of November 1807, at whose recommendation the annual allowance was fixed at sicca rupees 56,342. 9. 8. exclusive of broad cloth for decorating the cars; and the Satais Hazaree Mehal, with the "Khunjahs" attaching to it, was taken under the management of the Government officers. The average expenses of every kind for six years (that is, for two years of the Mahratta rule, and four of our Government, were taken at sicca rupees 65,999. 5. 9. 1.; the average receipts of every kind at sicca rupees 30,884. 12. 13, and the cash advanced by the ruling power at sicca rupees 29,355. 11. 13. 1. Mr. Webb disallowed various charges, and fixed the amount to be disbursed by Government at 56,342 sicca rupees, the average receipts being taken at 30,884 sicca rupees, and the deficit at 25,458 sicca rupees.

Did the lands belonging to the temple ever constitute the only known endowment pertaining to it?

Certainly not. Mr. Græme's statement (No. 8) shows the lands assigned for the support of the temple and other resources, of which the following is an abstract:—

\* Provided also, that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of Juggernaut, the charitable donation to the officers of certain Hindoo temples called Anoo Chuttree, and the allowance granted for the support of the Hindoo temple at Cuttack called Seetaram Thakoor Barrie.

Nothing contained in this Regulation shall be construed to authorize the resumption of the rents of any lands assigned under grants from the Rajah of Berar, or from any zemindar, talookdar, or any actual proprietor of land in the zillah of Cuttack, as endowments of the temple of Juggernaut, or of Mutho, in the vicinity of that temple, or for similar purposes; provided, however, that any fixed quit-rent which the holders of such lands are bound to pay by the conditions of their grants shall continue to be paid agreeably to former usage.

	Jumma of 1211, Kuhans of Cowries.
Mouzahs or villages, comprising the Satais Hazaree Mehal - -	47,390 13 -
Rent-free lands, in small portions - - - - -	630 - -
Khunjah or money assignments of pergunnahs in the Mogulbundee -	68,711 - -
Khunjahs or claims on the rent-free lands and villages in the Mogulbundee - - - - -	29,107 12 15
Resources of the temple under various heads; viz. poll-tax, custom duties, intestate property, &c. - - - - -	42,553 12 6
Khunjahs in certain Killahs - - - - -	3,113 8 -
	1,91,509 14 1

And upon every "Lall Jattree" 15 annas.

With reference to the "khunjahs," Mr. Webb remarks, "of the khunjahs or fixed assignments several have been brought on the jumma of the district, a measure which I would recommend to be adopted with all;" and the Board, in their letter to Government of the 29th of December 1807, supported this scheme; but whether it was fully carried out or not, I cannot distinctly ascertain. The amount of khunjah and quit-rents now collected by the Government officers, on account of the Satais Hazaree Mehal, amounts to only rupees 6922. 10. and it may be, therefore, inferred that the remaining khunjahs were included in Mr. Buller's settlement. The Government guaranteed, by sect. 8, Regulation XII. of 1805, that khunjahs or assignments of rent should not be resumed, so that the temple has an equitable claim, should we, in violation of our pledges, discontinue the payment of the donation, to whatever sum has been included in the rent-roll, as well as to compensation in consequence of the abolition of the "sayer" duties.

*Vide Commissioner's letter.*

A great quantity of the land assigned for the support of the temple has been either incorporated by the zemindars with the rhyottea lands, and has been since brought on the jumma-bundee, or has been usurped by lakherajdars, as may be concluded from the receipts of the Satais Hazaree Mahal, averaging, inclusive of the Khunjahs, for the last ten years, only 17,001 rs. 10 as. 8 p. Mr. Græme's statement, Nos. 9 and 10, shows lands under charge of the Mutdarees, for the use of Juggernath, and denominated "Khole khunjah," and certain villages granted for the purpose of supplying Juggernath Bhog, independent (he adds) of what was permanently allowed by Government. Mr. Græme remarks, touching the first statement, that the Mutdarees have embezzled a greater portion of the lands, and the jumma of the villages entered in statement 10, was never brought into the accounts of Government.

I beg, on the part of both the magistrate and myself as superintendent of the police of the district, to contradict these most unfounded statements of the pamphleteer; and to state that neither have the Purharrees been encouraged or protected, directly or indirectly, by the officers of Government, nor have the police been employed, directly or indirectly, in the impressment of persons to drag the car since the abolition of the pilgrim tax.

Is the trade of the Purharrees sanctioned by Government, and is the authority of the police employed to impress the labouring classes to drag the car at Juggernauth?

With the Purharrees or Pundahs the government officers cannot in any way come in contact; and as to the impressment of the people, I may add, that the Rajah of Khoordah waited on me last month at Pooree, and implored the aid and assistance of the government officers, for securing the attendance of the "Betiahs," or persons whose duty it is to drag the Ruts, which I peremptorily refused to him. It is for the purpose of obtaining some influence and authority over these people that the Rajah is willing to take the Satais Hazaree Mahals into his own hands, and is desirous of engaging for the revenue of other large estates, his property, but now held khas by Government, for political reasons.

The abolition of the tax has, without doubt, added to the number of pilgrims, but in no other respect has the splendour of the ceremonies been augmented.

Is the superstition of Juggernath, under the arrangements now sanctioned, flourishing beyond all experience?

It is impossible to form even a guess, which has any approach to accuracy, of the number of deaths amongst the pilgrims.

What is the probable loss of life amongst the pilgrims?

When the Rut festival is late in the year, the mortality from cholera, exposure to the wet weather, and bad food, is great; but 50,000 per annum is, in my opinion, a grossly exaggerated estimate. During the last three years the deaths amongst the pilgrims at Pooree are calculated by the civil surgeon at 484 per annum, but this does not include the mortality at the last Rut Jattrā, which upwards of 50,000 up-country and Bengallee pilgrims attended, and of whom it is reckoned about 700 died.

In conclusion, I consider it my duty to offer a few remarks on the attempt which is now being made to set aside the settlement of Lord Auckland. The settlement, inasmuch as regards the abolition of the tax, has given satisfaction to the people; but this is not the case with that part of the arrangement which vests the superintendence of the temple in the Rajah of Khoordah. The body of the Hindoo people not only object to the man, who is a person of thrifty character, and endeavours to limit the expenditure to the lowest possible amount, in order that he may appropriate to his own use the surplus; but they urge that Government has violated the professions which it avowed when we took the country, by withdrawing our interference with the management of the temple concerns. This interference

secured

secured a just administration of its affairs, and no doubt increased the celebrity of the temple, and therefore is its withdrawal unpalatable to them. However, the withdrawal of our interference has been in their eyes in a great measure redeemed by the faith which we have kept in continuing the payment of the established donation; and I would earnestly entreat the Government to pause here, to let well alone. We are bound in faith and in justice to pay the established donation for the support of the temple, and this is now done in the manner which I think is the least objectionable to our feelings as Christians; and truly has Lord Auckland remarked, "Our pledge was not to the individual priests, but to the Hindoo public," who alone can release us from our obligations.

The plan advocated by some, to discontinue the donation, and to permit the Rajah and priests to collect in lieu thereof the usual fees, would not only involve the violation of the pledge which has been given to the Hindoo public, but the voluntary contributions would gradually degenerate into a source of exaction and oppression on the pilgrims, and would create a great feeling of discontent amongst our Hindoo subjects.

I have, &c.

(signed) *A. J. Moffatt Mills,*  
Commissioner.

Office of Commissioner, 19th Division,  
26 August 1843.

(signed) *W. H. Martin,*  
Uncl. Assistant to Commissioner.

P. S.—The original enclosures of your letter (four in number) are herewith returned, and should the Board require copies of any of the documents referred to in this communication, I shall be happy to furnish them. The original records are bound up in books, with other miscellaneous correspondence, and could not be conveniently transmitted.

(signed) *A. J. Moffatt Mills,*  
Commissioner.

(True copy.)

(signed) *Cecil Beadon,*  
Under Sec. to the Govt. of Bengal.

NOTE by the Officiating Secretary, Home Department, dated 10 April 1844.

Donation to the  
temple of Juggernath.

ON the 4th of April 1843, the Honourable Court sent to the Government of India a publication respecting the present state of the temple of Juggernath.

In the 24th page of the pamphlet is found the following passage:

"If we are not to expect the interposition of Government to abolish practices which every humane mind condemns, we are entitled to demand that at least its patronage and support may be withdrawn from the iniquitous system. That patronage and support, notwithstanding the abolition of the pilgrim tax, are still afforded ostensibly and substantially to Juggernauth in the following instances:—

"1st. In the annual payment of 60,000 rupees to the perpetual maintenance of the establishment of the temple, the fees of the pilgrim hunters, the embellishment of the idol, and the pomp of the festival.

"2d. In permitting the trade of the Puharees or pilgrim hunters, a class of men whose occupation is to hunt over most parts of India to entice the ignorant and superstitious Hindoos to undertake a pilgrimage which is attended with greater loss of life, and innumerable other evils, than any other superstition.

"3. The employing the authority of the police to impress the labouring classes in the surrounding country to drag the idol's car at great festivals."

It is further asserted in the pamphlet, that "under the arrangements sanctioned, the superstition at Juggernauth is now flourishing beyond all experience," whilst in pages 9, 12, 13, 14, 15, 19, and 22, the loss of life among the pilgrims is rated as high as 50,000 yearly.

On all the above points the Court have required information and explanation, especially in regard to the annual payment to the temple. The specific ground, too, on which it was stated in Lord Auckland's Minute of the 17th November 1838, "Our promise of the allowance for the support of the temple is distinct and unconditional," has been required to be shown, and also the authority under which "the established donation for the support of the temple of Juggernauth, mentioned in Regulation XII. of 1805, was first granted, or the period during which it may have been received, and its amount." At the same time the Court have desired to know whether the pamphleteer's assertion was correct, that the lands belonging to the temple ever constituted "the only known endowment pertaining to it."

The letters now laid before the Government of India prove, what was notorious enough before, that all the charges brought forward in the pamphlet are wholly untrue, save in that the Government pay annually a sum to the maintenance of the establishments of the temple of Juggernath.

With respect to the payment to the temple after the relinquishment of the tax, and the ground on which Lord Auckland recorded and acted upon the opinion that the Government of India was pledged to continue the donation, the Deputy Governor of Bengal, in a letter from

from Mr. Secretary Halliday, states that it was under an erroneous supposition that a pledge had been given, which could not be got rid of without a breach of faith, that Lord Auckland continued the donation subsequent to the abolition of the tax, and that in his Honor's judgment the only real difficulty which now stands in the way of the Government ridding itself of the payment is the one thus created\*. In support of this opinion, and to establish the fact, that when the British Government undertook to provide funds in the shape of an annual donation for the contingent expenses of the temple, "it never was intended that the said donation should be a charge on the general revenues of the country (and as a natural consequence, that Lord Auckland could have had no valid ground for concluding the Government to be bound to aid in the support of the temple, when it had withdrawn from all interference with its officers). Numerous extracts from correspondence which passed between the authorities, military and civil, employed in the newly-acquired province, are brought forward.

It is matter for consideration whether the facts developed in the cited extracts are not well calculated to account for, if they do not warrant the correctness of Lord Auckland's declaration, that "our promise of the allowance for the support of the temple is distinct and unconditional."

That Lord Wellesley thought the British Government bound to maintain the establishments, and keep the pagoda in repair under any circumstances, may be fairly inferred, for it is made plain, that at the Commissioner's suggestion he allowed the usual aid to be given to the Brahmins of the temple in 1803, at a time when it was thought inexpedient to collect a tax, and when at length, in 1804, he consented to the re-establishment of the tax, and to that end called upon the Commissioner for the plan to be pursued, and the rates of collection proper to be fixed. His instructions were conveyed in these terms: "Independently of the sanction afforded to this measure by the practice of the late Hindoo Government in Cuttack, the heavy expense attendant on the repairs of the pagoda, and on the maintenance of the establishments attached to it (which has always been defrayed by the Government of the province), render it necessary, from considerations connected with the public resources, that funds should be provided for defraying this expense. His Excellency also understands that it will be consonant to the wishes of the Brahmins attached to the pagoda. The establishment of the revenue will be considered, both by the Brahmins and the persons desirous of performing the pilgrimage, to afford them a permanent security that the expenses of the pagoda will be regularly defrayed by Government, and that its attention will always be directed to the protection of the pilgrims resorting to it, although that protection would be afforded under any circumstances. There can be no objection to the British Government availing itself of these opinions for the purpose of relieving itself from a heavy annual expense, and of providing funds to answer the contingent charges of the religious institutions of the Hindoo faith maintained by the British Government."

4th May 1804,  
para. 19, Mr. Secretary Halliday's  
letter, No. 177,  
dated 11th March  
1844.

These instructions and remarks were elicited from the Government by a despatch from the Commissioner in the province, in which an application was submitted "for the customary advance of 16,000 rupees to provide supplies for the consumption of the priests and their families, and of the pilgrims;" and further drawing the attention "of his Excellency the Governor-general to the policy of renewing the tax on pilgrims proceeding to Juggernath." In this view of the subject wrote the Commissioner: "It appears that the priests and officers of the pagoda would be highly pleased with the renewal of a certain source of revenue on which their livelihood depends; and it is not, on the other hand, unreasonable to suppose they have considerable doubts at present as to the continuance of donation to so large an amount, whilst no apparent provision is made to meet the expenditure."

Para. 16, Mr. Secretary Halliday's  
letter, No. 177.

Now, from the above correspondence it is difficult to resist the conviction that Lord Wellesley was willing to avail himself of the doubts of the Brahmins to restore the pilgrim tax; not because, without its re-establishment it would have been "politically" justifiable to hold back the usual donation, but because considerations connected with the revenues rendered it expedient so to provide for the donation.

Were any additional proof needed to show the light in which the Government of 1803, 1804, 1805, and 1806, considered the donation to the temple of Juggernath, it is found in the 30th section of Regulation XII. of 1805, a Regulation passed before the pilgrim tax was re-established, and which, as observed by the present Commissioner of Cuttack, contains the emphatic declaration, "Provided also, that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of Juggernath, the charitable donation to the officers of certain Hindoo temples called Annon Chuttrie, and the allowance granted for the support of the Hindoo temple of Cuttack, called Seetaram Thakoor Barree."

It is probable that in Lord Wellesley's letter of instruction of the 4th May 1804, and in the

\* Lord Auckland, when absent from his council, recorded his opinion in a Minute, dated Loodiana, 17th November 1838. The abolition of the tax was decided on by a resolution of the President of the Council in council, on the 11th of March 1839; present, the Honourable Colonel Morrison, Mr. Robertson, Mr. W. W. Bird, Mr. A. Amos. "The President in Council resolves, in accordance with the opinion expressed in his Lordship's Minute, wholly to relinquish the tax on pilgrims; to continue the yearly donation now given for the support of the temple, for which the faith of Government is pledged."

A Minute was recorded by Mr. Bird, many months after the above resolution was passed (17th October 1839), not objecting to the donation to which in good faith the Government was pledged, but to an arrangement suggested by Lord Auckland, which would have placed the management of the institution, by a deed of trust, in the hands of the Rajah of Koordah. Mr. Bird's Minute is quoted at the 39th page of the printed pamphlet.

the Regulation of 1805, which, at a time when no tax existed, provided for the continuance of an "established donation," Lord Auckland found grounds for his declaration that "our promise of the allowance for the support of the temple is distinct and unconditional."

The Sudder Board of Revenue\*, after an attentive and deliberate consideration of the circumstances, have had "no hesitation in declaring that they could not find that the Government have ever bound themselves by any pledge; and the only argument which they think can be derived from the passage in sec. 30, Regulation XII. of 1805," already quoted, "is, that Government did not at that time intend to resume the donation, and not that a promise or pledge was given to continue the Government payment in perpetuity."

But when this judgment was given, the evidence collected by Mr. Mills had alone been considered; and it is very probable that the conclusion might not have been arrived at, had the letter of Lord Wellesley's Government of 1804 been before the Board; at any rate, formed on incomplete evidence, and without a full knowledge of the views which actuated the Government before and after the passing of Regulation XII. of 1805, it does not carry with it that weight which it otherwise would have done.

The Government of Bengal, however, with access to documents which were wanting to the Board, thinks decidedly that no promise was implied, and that Lord Auckland alone complicated the case, by the assurance he held out when he discontinued the tax and preserved the donation to the temple. But if Lord Auckland's Act† is thought to constitute a serious difficulty, the involvements of the case are magnified by reverting to the period when a donation was freely made, although at the time the British Government, unfettered by the question of pledge or no pledge, might without injustice or impropriety have refused to afford its countenance or protection to the temple.

At that juncture, however, when the British Government was free to refuse its support to the temple, motives of policy required that the religious institutions of a newly-conquered province should be tenderly dealt with; and all the orders issued to the military and civil authorities employed in Cuttack evince the utmost anxiety on the part of Lord Wellesley that every precaution should be employed "to preserve the respect due to the pagoda, and other religious prejudices of the Brahmins and pilgrims."

It was this feeling, doubtless, which actuated the Governor-general when he sanctioned the usual outlay on the temple after the pilgrim tax (owing to the objectionable manner in which it had been exacted,) had been suspended, and not the fact that former Governments had granted assistance to the priests, for the Governor-general could not have been blind to the true nature of that assistance. The Mahomedan Government, and afterwards the Mahrattas, levied a tax, and set apart a portion of the proceeds to be expended in fostering an establishment which yielded a tax. Lord Wellesley was not at all likely to have been deceived into the belief that this was a donation, or that it was anything more than a simple disbursement to maintain a profitable institution. A payment of such a character might, without injustice or impropriety, have been forthwith discontinued, and no doubt would have been discontinued had the Government deemed it expedient so to do; expediency, however, led the Government to pursue a different and conciliatory course. A donation was yearly made; in an enactment this donation was termed an established donation, and when at last a tax was reimposed, the Governor-general, in words and by acts that can scarcely be mistaken, ruled that the right of the Hindoo institutions to protection and support could not be touched by the revival or abolition of a tax.

(signed) *T. R. Davidson,*

10 April 1844.

Officiating Secretary to Government of India.

\* The Board of Revenue, when addressing the Bengal Government on the 26th April 1838, considered the Government pledged. The senior member in 1838 is the senior member in 1844.

Mr. Pattle, the senior member of the Board, in a Minute dated the 19th April 1838, thus expressed himself: "This temple should be left to the support established and pledged by law, and that which may be derived from voluntary contributions." Again, "But the Government are pledged, by a specific regulation, and by its practice for more than 30 years, to the payment of a fixed sum annually for the support of the temple."

† The Act was apparently the Act of the Government, nor would it seem that the then Government, or any subsequent Government, however anxious it may have been to be relieved of all connexion with the affairs of the temple, ever for an instant contemplated an arrangement for that purpose which did not embrace some provision for the "pecuniary obligation;" thereby recognising as just "the difficulty" which is said to have been created in 1839 and 1840.

The pamphleteer has quoted some words from a despatch of the Government of India, 20th August 1838, consisting of the President and Council (the Honourable A. Ross, T. C. Robertson, W. W. Bird) to suit his own purpose; but he has been careful to conceal the real sentiments of the council in regard to the donation. They are in the 14th para. of the despatch in question: "According to the former statement, Rajah Rumchunder Deo, the superintendent, is willing to release the Government from its pecuniary obligation to support the temple, provided that he is allowed to collect the contributions; but the Rajah is not the only person whose assent to such an arrangement is necessary. The payments which the Government is bound to make are received, for the most part, by the Purchas of the temple. They would probably concur in such an arrangement, if their own individual interests were duly cared for," &c.

The plan which the President in Council submitted to the Governor-general is summed up in the 24th para. of the same letter. The arrangement would have suited the Rajah of Khoordah and the priests of the temple, but it overlooked the interests and feelings of the people in general. Lord Auckland, therefore, did not assent to the recommendation of his council; and the council, adopting his Lordship's views, abolished the tax and continued the money payment. It is to be observed, that the Act X. of 1840 does not allude to the "established donation" in any way whatever, that question having been finally disposed of by the resolution of the President in Council in March 1839.

MINUTE by the Governor-general; dated the 11th April 1844.

THE obligation we incurred was to support the temple; we cannot relieve ourselves from that obligation by depriving ourselves of certain revenues which may be considered to have been reimposed, after temporary discontinuance, for the purpose of bearing or lightening our burthen.

Lord Wellesley did what he did from views of policy; there exists still the same reason for following his views.

We have chosen to abolish the pilgrim tax, for the purpose of disconnecting ourselves from a religion with which it was held that we ought to have no concern. The effect of the abolition of the tax on pilgrims has of course been to increase the number of pilgrims, and thereby to strengthen the religion taught by the Brahmias. If we think it wrong, now we have deprived ourselves of the revenue we derived from the pilgrims, to continue to perform the obligation we were understood to have incurred of supporting the temple, it would be better to allow the receipt of a moderate tax, to be paid to the priests for the sole purpose of defraying the charges to which we are liable, the disbursement of the sum received being left in their hands as well as its receipt.

To give lands, that is, the revenue from lands, and to give money, are in fact the same thing; our real position with respect to the temple would not be altered by the substitution proposed.

(signed) *Ellenborough.*

MINUTE by the Honourable *W. W. Bird*; dated 15 April 1844.

HAVING already expressed my sentiments on the subject, as Deputy-governor of Bengal, Temple of Juggernaut. in the letter from Mr. Secretary Halliday, dated the 11th ultimo, I shall endeavour to compress what further I have to say into as small a space as possible.

2. In pursuance of the instructions received from home to withdraw from all interference, and from affording any sort of patronage or support to the temple of Juggernaut, the President in Council addressed a letter on the 20th of August 1838 to the Governor-general, Lord Auckland, then at Simla, soliciting his opinion on the subject, and recommending to his Lordship, as the only plan proper to be adopted for carrying out the object in view, "that the Government should relinquish the tax now levied by it from pilgrims, and make over to the Rajah of Khoordah, as superintendent of the temple, and to the chief priests, the management of the Suttaees Huzaree Mehal, (they binding themselves to adhere to the settlements with the landholders of the mehal, made by the collector and confirmed by Government,) and also to leave to the Rajah and the priests the entire management of the rites, ceremonies, and affairs of the temple, and the distribution among themselves of the fees and donations offered by the pilgrims, on condition that the Rajah and priests should relinquish all claim to the annual payment heretofore made by the British Government on account of the expenses of the temple, and should engage to pay annually to the magistrate the sum of 3,754 rupees for the support of the pilgrim hospital, and 2,666 rupees for the subsistence of pauper pilgrims."

3. To this condition, however, Lord Auckland would not agree. He considered that we were pledged to continue the donation under any circumstances, whether the Rajah and the priests were willing to relinquish it or not; that our promise of the allowance for the support of the temple was distinct and unconditional, and should be fulfilled to the letter, in order that it should thus be made manifest that our professed reasons for the important measure which we were about to adopt, were also our real ones, and that no considerations of pecuniary benefit had affected our resolution.

4. Under these circumstances the President in Council drew up the resolution based upon his Lordship's views, dated the 11th March 1839, which, after some further discussion on subordinate points, was at length adopted. In the course of that discussion I took the opportunity of stating, in a minute dated the 17th of October of the same year, that we ought to avoid everything calculated to be considered as guaranteeing to the Hindoo community the preservation in perpetuity of those abominations, our total disconnexion with which had been so loudly called for as indispensably necessary to the honour and character of the British nation, and that all we had to do was to withdraw from interference, leaving the temple of Juggernaut with the individuals belonging to it, like the Hindoo temples at Benares, with which we have never interfered, to take care of themselves. "By so doing," I added, "we should as far as practicable replace the temple in the state in which it was before the management was assumed by us. The Hindoo community would have the same security for the good conduct of those in charge of it as they had for their temples elsewhere. We should get rid of all responsibility, and accomplish in the shortest and simplest mode, what, unless I greatly mistook, would afford no less satisfaction to natives than to Europeans." In these sentiments the President and Council recorded their entire acquiescence.

5. Lord Auckland, however, adhered to his own views in regard to the donation, which has accordingly been continued up to the present date, with no other change than the transfer of the Suttaees Huzaree Mehal to the Rajah of Khoordah and the priests, which reduces the amount to be annually paid by Government in support of the temple to rupees. 36,178. 12. 2.

6. But the Home authorities having seen reason to question the soundness of Lord Auckland's



land's views, further inquiries, by their direction, have been made, from the result of which it appears that the whole arrangement originated in motives of policy at the time, and that nothing took place to prevent its being set aside, provided an alteration of circumstances should render such a measure desirable to the parties concerned. There was consequently nothing that could be considered an indissoluble pledge to prevent the adoption of the plan proposed by the President in Council, to which there is no doubt that the Rajah and the priests would have been perfectly willing to agree; and it is obvious that if we were not at liberty to stipulate for the discontinuance of the donation on the relinquishment of the pilgrim tax, neither were we at liberty to withdraw from the official 'superintendence which we had hitherto exercised in support of the temple, the Government being just as much pledged to the one as to the other.

7. The opportunity of discontinuing the donation having been thus lost, and the right of the temple to receive it in perpetuity unreservedly acknowledged, neither the Rajah nor the priests will of course consent to relinquish it without some new equivalent. But where is this equivalent to be found? We have given up unconditionally to the parties in charge of the temple the fees and offerings of the pilgrims, now greatly augmented by the abolition of the tax; and as to imposing it again in a moderated form, to be collected by the priests from the pilgrims, in excess of their voluntary offerings, such a measure could not properly be resorted to, for the reasons assigned when a scheme of a similar nature was originally proposed. These reasons I give in Lord Auckland's own words as follows:

"The question arises whether Government could properly make over the collection of the tax, as a tax fixed by law, to the superintendent and priests of the temple for their own benefit. For it is said, that, to protect the people from extortion, it would be necessary that the rate of fees (by which name rather than that of a tax, an impost levied by the priests might best be designated) should be fixed, and should on no account exceed that of the tax now fixed by law. I agree, however, in the opinion expressed by the President in Council, that though restrictions may be placed on fees, there can be no limit to the amount of gratuitous offerings, and that the priests can render any rate of fees nugatory; for even under the present system it seems that only those who are too poor to be able to pay more than the tax escape extra demands. The plan therefore seems to be, on this account as well, not a practicable one, as it would be otherwise decidedly objectionable, inasmuch as it gives to the priests a legal right, such as nowhere else exists, of exaction sanctioned by the Government against the pilgrims who may visit the temple. I think that these objections are unanswerable, and am disposed consequently with the President in Council to give a clear preference to the plan of wholly abolishing the tax, and all authoritative demands upon the pilgrims."

8. Such are the reasons against imposing a tax on the pilgrims, to be collected by the superintendent and the priests, for the purpose of relieving us from the annual donation. To convert the money payment into an assignment of land, the revenue thereof to be collected by the superintendent and the priests, is likewise not without objection; but it is the course which by the desire of the Home authorities has been pursued in the case of the Suttaces Huzaree Mehal, and appears, as matters actually stand, to be the only alternative.

(signed) *W. W. Bird.*

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MINUTE of the Honourable *T. H. Maddock*; dated 20 April 1844.

Money allowance to the Temple of Juggernath.

THE question for consideration in this case is, whether the Government is under any pledge to continue the allowance now made from the public treasury in support of the temple of Juggernath and its establishments; and if it were a question between private individuals, there certainly are grounds on which a lawyer might plausibly argue against the obligation of the pledge. But as it appears to me that there are no grounds on which a great Government can with any propriety attempt to evade the obligations which it has voluntarily incurred, and which up to the time of the last settlement of this question, when the pilgrim tax was abolished, it has formally acknowledged.

At that period, during the government of Lord Auckland, when the abolition of the pilgrim tax was the point urged upon the Government of India by the Court of Directors, it might have been easy to abolish the tax as an impost from which the Government derived an income, and to separate the Government from all concern with the temple, and this might then have been effected even without restoring the Satais Huzree Mehal or its revenues to the Rajah of Khoordah and the priests of the temple, for he and they would have been ready enough to close their connexion with the Government, if they had been allowed to collect the tax on their own account; and this would have been the simplest course to adopt, both because there could have been no objection on the score of offence to religion in the tax being continued, provided the British Government had no concern in the collection, and derived no pecuniary benefit from it, and because the probability then was and now is that whatever is saved to the pilgrims in the remission of the tax is exacted from them in some other shape, over which the Government cannot and ought not to have any control.

That opportunity was lost because, as it appears from his minutes, Lord Auckland thought it the duty of Government to protect the Hindoo votaries from the exactions to which they might have been subjected if the levying of the tax had been left uncontrolled in the hands of the Pundabs and others interested in it as a source of income to themselves. I do not suppose that the abolition of the tax was likely to diminish to the people the expense of their pilgrimage, and whether it was likely to have that effect or not, the matter was one that

that might have been left to be settled between the parties interested in it. For whether the temple has its resources increased by an annual donation from Government or not, we may feel perfectly assured that its priests will so manage their affairs as to extract, whether it be in the shape of tax at the barriers, or in the shape of fees at the gates and in the interior of the temple, the whole of the little store that the pilgrim has brought with him.

But as we did not avail ourselves of the opportunity we possessed of saying to the Rajah of Khoordah and the benefited priests of Juggernath, that we gave up to them the lands which originally belonged to the temple, and allowed them for the future to levy the tax for their own benefit, but adopted another plan, by which, though the tax was abolished, we continued to pay the allowance which we were before supposed to pay out of the sums realized by us from the tax, I do not see how we can now consider ourselves absolved from the obligation of continuing payment, unless by negotiation with the parties interested in the allowance; and it is very doubtful, for the reasons I have stated, whether they would find any advantage in the revival of the tax for their own benefit, to compensate them for the loss of the money allowance which they now draw from the treasury.

Such a measure may, if the Government thinks proper, be proposed to the parties interested; but if they reject it, I cannot think it would be just or honourable to discontinue the payment; and I cannot think that any attempt to avoid the odium of being subject to such payment by a grant of land yielding revenue equal to its yearly amount, would be worthy of a great Government, or would make any substantial difference in the position in which we now stand with relation to the temple of Juggernath.

I should be glad to see an attempt made to induce the Rajah of Khoordah and the other persons interested in this question to undertake the management of the temple of Juggernath, with full permission from the Executive Government to levy what tax they think proper from pilgrims, and the discontinuance of all payment to them from the treasury; but if they are unwilling to accede to such an arrangement, I consider Government bound to continue the payment.

(signed) *T. H. Maddock.*

MINUTE by the Honourable *F. Millett*; dated the 3d July 1844.

OF the seven points of inquiry referred to us in this despatch, the five last are sufficiently answered by the letter from the Bengal Government and its accompaniments; I shall therefore confine my remarks to the two first; viz.:

1. The specific ground on which it was stated in Lord Auckland's Minute of the 17th November 1838, "Our promise of the allowance for the support of the temple is distinct and unconditional."

2. The authority under which "the established donation for the support of the temple of Juggernath, mentioned in Regulation XII. 1805, sect. 30, was first granted, or the period during which it may be known to have been received, and its amount."

With regard to the first query, there is nothing on the records of this Government to show the specific ground on which Lord Auckland rested his statement beyond what appears in the minute itself. His Lordship therein observed, "Sect. 30, Regulation XII. 1805, guarantees, in absolute and unqualified terms, the money allowances which had been assigned to the temple. On taking forcible possession of Cuttack, we conciliated submission by binding ourselves to the accustomed maintenance of the temples of the country, and the same principle which would withhold this pledged payment would, if followed out, pluck its endowments from every religious institution in the country."

With respect to the second query, it cannot now be ascertained whether any portion of the pilgrim tax collected under the Mahomedan government was devoted to defraying the expenses of the temple.

The undisturbed sovereignty of the Rajah of Berar, dated from A. D. 1755-56. The Mahratta government continued to levy the tax, and not only supported the temple, but took upon itself the superintendence of its affairs, making good from the public treasury the sum in which the annual disbursements exceeded the annual receipts of the institution. These payments in the last three years of the Mahratta rule were,—

Willaity Era.	A. D.	Sic. rs.
1208 - - -	1800-1 - - -	20,393
1209 - - -	1801-2 - - -	21,498
1210 - - -	1802-3 - - -	18,432

We have no information as to the amount of payments of any earlier date.

The main point for consideration is, how far the original resolution of the British Government to continue the annual payment to the temple is to be regarded as a pledge, or in the nature of a pledge, so that it cannot now be abandoned without impairing our public faith.

The conciliatory measures adopted by the Marquis Wellesley for the establishment of the authority of the British Government in the province of Cuttack, and, as a special means to that end, of gaining over the priests of Juggernath, as well as the first steps taken in the management of the affairs of the temple, are fully set forth in paras. 15 to 19 of the letter from the Bengal Government.

It will be observed that Marquis Wellesley warned the officer appointed to command the troops

Court's Despatch,  
Legislative Department,  
No. 6, of 1843,  
dated 4 April 1843.



troops "not to contract with the Bramins any engagements which might limit the power of the British Government to make such arrangements with respect to the pagoda as might thereafter be deemed advisable;" and on the 1st November 1803, whilst he directed the temporary discontinuance of the pilgrim tax, he postponed any final arrangement for the regulation of the temple until a detailed statement of the system of management theretofore prevailing should be furnished by the Commissioners.

Meantime the Commissioners applied for authority both to make the usual donations from the public treasury, and to re-establish the pilgrim tax as a resource to meet the expenditure, which indeed they appear to represent as the object for which the tax was established, though it is well known such was not the origin of it. "If these donations are denied," they write, "it is to be apprehended, in addition to the great distress it will occasion, that the pagoda will be deserted; and if these disbursements are continued without establishing the former resources to meet so heavy an expenditure, we beg to be honoured with the commands of his Excellency the Most noble the Governor-general for the appropriation of the required sum from the territorial revenue of the province."

The reply of Government (dated 4th May 1804) to this application is the document most pertinent to the question at issue. It authorizes the re-establishment of the tax, and contains the following observations:

"Independently of the sanction afforded to this measure by the practice of the late Hindoo Government in Cuttack, the heavy expense attendant on the repair of the pagoda, and on the maintenance of the establishment attached to it (which has always been defrayed by the government of the province), render it necessary, from considerations connected with the public resources, that funds should be provided for defraying this expense. His Excellency also understands that it will be consonant to the wishes of the Brahmins attached to the pagoda, as well as of the Hindoos in general, that a revenue should be raised by Government from the pagoda. The establishment of this revenue will be considered, both by the Brahmins and the persons desirous of performing the pilgrimage, to afford them a permanent security that the expenses of the pagoda will be regularly defrayed by Government, and that its attention will always be directed to the protection of the pilgrims resorting to it, although that protection would be afforded by the Government under any circumstances. There can be no objection to the British Government's availing itself of these opinions for the purpose of relieving itself from a heavy annual expense, and of providing funds to answer the contingent charges of the religious institutions of the Hindoo faith maintained by the British Government."

As the questions of the continuance of the payments and the revival of the tax were thus agitated together, it is difficult to determine with confidence how far the first would have been entertained independently of the second. The expressions used in the above quoted reply seem to show that the protection of the pilgrims (and not payment of the expenses of the temple) was all that Government felt bound to give independently of the tax. And it certainly appears to me that no pledge to continue the payment under all circumstances can be elicited from the correspondence.

Collection of papers respecting the temple of Juggernaut, printed by order of The House of Commons, in May 1813, p. 25.

Pp. 16, 21, 22, *ibid.*

The first order of Government sanctioning the annual payments, traceable in the records, is dated the 23d January 1806, though previous permission must have been given. It authorizes the acting collector of the tax on pilgrims "to make such advances of cash as might appear to be necessary for the support of the temple, and for the maintenance of its ministers and officers, and as might be conformable to former established usages."

With reference to para. 20 of the letter from the Government of Bengal, it may be observed that the draft of a regulation for the collection of the tax was laid before Government on the 21st November 1805, and though not then passed into a law, orders were issued on that date for the collection of the tax according to the provisions contained in it, which orders were carried into effect in January 1806. The books of the Accountant-general show the following entries:

Collections on Account of the Pilgrim Tax:

								<i>Sic.rs.</i>	<i>a.</i>	<i>p.</i>
1804-5	-	-	-	-	-	-	-	453	12	1
1805-6	-	-	-	-	-	-	-	72,684	-	-

Sundry Expenses of the Temple:

								<i>Sic.rs.</i>	<i>a.</i>	<i>p.</i>
1804-5	-	-	-	-	-	-	-	54,003	13	3
1805-6	-	-	-	-	-	-	-	47,532	13	3

In a statement submitted by the collector of the tax on the 6th May 1807, I find the payments from the public treasury in the first two years of our rule entered thus:

Willaity Years.		A. D.				<i>Sic.rs.</i>
1211	-	-	1803-4	-	-	38,876
1212	-	-	1804-5	-	-	34,080

The materials of this narrative, extending from June 1806 to April 1808, are taken from the printed collection above quoted.

It will be useful to trace the proceedings of the Government respecting the temple of Juggernaut after the departure of Marquis Wellesley, with reference to the particular point under consideration.

On the very first adjustment of the receipts and disbursements on account of the pilgrim tax, viz. from the 23d January to 30th April 1836, the Board of Revenue, apprehending that the receipts from the pilgrims would scarcely prove sufficient to defray the expenses of the temple, suggested to the Government a modification of the system, both as to the collection of the tax, and the superintendence of the affairs of the temple, proposing to confine the interference of Government to the levy of a duty from the pilgrims in like manner as was done at Gyah and Allahabad.

In reply, the Government desired that the collector might be called on for "a detailed statement of the sums paid or payable on account of the temple up to the 31st May (1806), and for a full explanation of the grounds on which the expenses had been incurred;" and the Board were requested to submit a draft of new rules for the future management of the temple, on the principle stated in their letter. The Government observed, "In authorizing the collector to incur the expenses necessary for the support of the temple, it was of course to be understood that such authority had reference to the expenses incurred for that purpose during the late Mahratta Government."

The plan prepared by the Board, under the above instructions, was shortly this:

To allow the priests to collect their own fees from the pilgrims instead of employing the Government officers for the purpose; and this on the principle that so long as the Government agency was employed, the pilgrims would limit their payments to the established fees; whereas were the priesthood allowed to collect their own fees, the richer votaries would be induced to make voluntary presents far exceeding those fees:

To assign to the priesthood, for defraying the expenses, and for discharging the allowances and salaries of the persons attending to administer the affairs of the temple, the produce of the endowment lands, together with such fees as might be authorized to be levied on account of the temple, with any voluntary contributions which might be offered by the wealthy Hindoos. In support of their plan the Board remarked, "that the net amount of the duties levied by Government from the pilgrims resorting to Gyah, amounts annually to about a lack and a half of rupees; at that place the collector has no further interference with the pilgrims than to levy certain duties from them on the part of Government; in respect to the ceremonies to be performed, or to any donations to the priesthood, the collector has no concern whatever."

"According to the proposed system," they further remark, "the expense to be incurred on account of the Government will be, 1st, The collector's establishment; and, 2d, The establishment of the darogahs at the two ghats."

This plan the Board first communicated to the collector of Juggernaut, with directions to report whether any, and if any, what objections occurred to him against the intended alteration.

The collector, after some suggestions regarding the internal management of the temple, observed, "I suspect the priesthood will not willingly agree to continue the ceremonies of Juggernaut in the present style, with the funds proposed to be assigned to them by the 4th paragraph of your letter; but on this subject I have not considered it advisable as yet to consult any person."

In submitting their scheme to Government, the Board write: "The collector states his opinion generally, that he considers the plan practicable and advisable; but at the same time he expresses his doubts whether the priesthood would consent to the arrangement, unless other funds are appropriated for the expenses of the temple than those we propose to be left for that purpose, viz. the lands at present assigned, and such fees for the officiating priests as were heretofore received by them under the Mahratta Government; but on this point we do not ourselves entertain any doubts, as we think the above funds, with the voluntary contributions from the wealthy, will be fully sufficient to defray all the necessary expenses of the temple."

The plan will at least be attended with this advantage, that Government will know the extent of the expense to which it will be subjected in the collection of the duty from pilgrims; and we think that all interference on the part of Government in regard to the internal management of the temple, should as much as possible be avoided."

The Government replied: "The plan suggested in the 3d paragraph of your letter for defraying the expenses of the temple, appears to the Governor-general to be very advisable, provided that it can be carried into effect consistently with the attention which the Governor-general in Council is desirous of showing to the religious opinions of the Hindoos in providing for the support of the temple; to enable the Governor-general in Council, however, to form a more accurate judgment on this point, you are desired to submit to him a statement of the allowances at present assigned, either in land or money, for the support of the temple, and of the expenses of the institution, on the scale of moderation on which the Governor-general in Council concludes it was maintained during the late Mahratta government."

Very little satisfactory information being subsequently obtained respecting the funds applicable to the support of the temple, and of the whole expense required to be disbursed in a year for the institution, the Government ordered a further investigation into the extent and situation of the endowment lands, and a proper mofussil settlement to be made of them under the collector's immediate control and direction, and addressing the Board of Revenue, added: "On consideration of the amount of revenue which may be expected to be derived from the above-mentioned lands, and of the other resources noticed in the collector's letter, Government will be enabled to judge whether it be necessary to assign any further funds for the support of the temple of Juggernaut or otherwise. In the meantime

The purveyor,  
Tehsildar, and  
cash-keeper of the  
temple.

you will direct the collector not to advance any further sums on that account, without the special sanction of Government."

Meanwhile the affairs of the temple began to fall into disorder. The Sataees Huzareh Purcha demanded payment of a balance which he stated to be due to him on account of the temple, to the amount of 14,646 rupees, and declared his inability to advance any further sums to meet the expenses of the ceremonies. The chief Purcha represented to the collector that the expenses of the temple had always been defrayed from its own funds, and the assistance received in cash from Government; that three great festivals were approaching; that after the settlement of the Sataees Huzareh Purcha's accounts, "a new arrangement might be made for the future;" but that in the meantime, "unless some money should be given at present by the Government," there would be the utmost difficulty in carrying on the affairs of the temple.

Under these circumstances the collector urged upon the Board of Revenue the expediency of advancing whatever money might be absolutely required for the ensuing festivals; and of immediately investing the Rajah of Khoordah with his authority, and making the payments to him. And further, he recommended that the accounts of the Sataees Huzareh Purcha should be passed, and that a permanent allowance should be assigned to the temple.

A. D. 1805-6.  
A. D. 1800-1.

In submitting these propositions to Government, the Board of Revenue remarked on the very great increase on the expenses of the temple in late years, the charges of 1213 being nearly double those of 1208, and the small comparative increase in the funds; but admitted the necessity of an immediate advance of money; and doubting whether any accurate information could be obtained as to the amount of the requisite annual expense, and of the funds of the temple, excepting as to the produce of the endowment lands, they concluded, from the accounts submitted, that there existed a necessity for some advances being made by Government in addition to the funds of the temple, and for reasons stated they suggested that 20 per cent. on the net collections of the pilgrim tax should be appropriated for that purpose. Subsequently the collector submitted to the Board statements of all the receipts and disbursements on account of the temple during the preceding six years, according to the best information he could procure, observing, however, that no satisfactory account of the produce of the endowment lands could be furnished, but after actual measurement made. The general result of these inquiries on the average of the six years was as follows:

Expenses of the temple, exclusive of repairs of the building, and woollen cloths for the cars	Sic. rs.
Receipts of every kind, exclusive of cash advanced by Government	65,995
Cash advanced by Government	30,884
	29,335

The collector proposed to fix 56,342 sicca rupees as the limit of the annual expense for the future. Several of the khunjas or fixed assignments having been already brought on the jumma of the district, he recommended that this measure should be adopted with all, and the amount paid from the Government Treasury. These propositions were approved by the Board, and finally sanctioned by Government, who also authorized the allowance of 20 per cent. on the net collections of the pilgrim tax, in aid of the endowments of the temple, but reserved to itself the option of augmenting or reducing the rate as from time to time might appear advisable. From that time the lands and assignments were taken under Government management; and the limit of 56,342 sicca rupees for the expenses was adhered to, that sum being annually paid out of the pilgrim tax. The rule respecting the per-centage appears to have been abandoned.

In reporting these and other arrangements regarding the temple and the tax to the Court of Directors, the Government observed, "Great difficulties have occurred, from the peculiar nature of the case, in placing the management of the temple and the collection of the tax on a proper footing; we trust, however, that those difficulties have at length been nearly overcome, and that the final arrangements now in contemplation will, among other advantages, be productive of some increase in the public revenue. But whatever may be the result with respect to that point, your Honourable Court will consider the revenue which may be obtained by their means as of little moment compared with the importance of consulting the wishes and religious opinions of the natives, in a case affecting them with so lively an interest as must necessarily be excited by arrangements for the support of their most celebrated place of worship."

It is clear, from this narrative, that in 1806 the Government of Bengal did not consider itself bound, as by a pledge, to continue this annual payment, for the inference may be fairly drawn from their proceedings, that if the result of the inquiries then instituted had shown that the funds of the temple were sufficient to meet the expense of the ceremonies, on the scale in which they were conducted under the Mahratta rule, the payment would have been discontinued, though the pilgrim tax would still have been levied for the benefit of Government; but the result was otherwise, and consequently the payment was continued, because it was "consistent with the attention which the Governor-general in Council was desirous of showing to the religious opinions of the Hindoos, in providing for the support of the temple." A question has been raised as to the intent of the proviso in sect. 30, Regulation XII. 1805.

By the local authorities in Cuttack it is regarded as containing a distinct pledge that the donations and allowances therein specified shall be continued in perpetuity. The Sudder Board of Revenue construe it as merely declaring, in general terms, that those donations and

and allowances are not to be affected by the provisions of the law as laid down in the preceding part of the section, and as leaving their nature and extent quite undefined; and they allege that all that can be inferred from it is, that the Government did not, at the time the law was passed, intend to resume them, and not that a promise or pledge was given to continue them in perpetuity.

The force of this and similar provisos in the Bengal Regulations seems to be, that the grants specified in them are not affected by the general provisions of the Regulations in which they respectively appear; and whenever such grants cannot otherwise be affected, the proviso amounts to a virtual confirmation; but if they are liable to challenge on grounds independent of the Regulation, they are not saved by the proviso.

So far as I am acquainted with the history of the institutions specified in the proviso in question, the charitable donation to the officers of the Anoo Chutree, and the allowance for the support of the Seetaram Thakor Baree, stand on a different footing from the donation for the support of the temple of Juggernauth. The two former were gratuitous and unconditional; the last, which, under the Mahratta rule, varied in amount according to the excess of the expenditure over the receipts of the temple, cannot be regarded in the same light. These payments were made in support of an establishment, productive, by means of the pilgrim tax, of a large revenue to the State, and may be looked upon as disbursements for the maintenance of a profitable institution; the last, therefore, might be judged liable to be withdrawn, and the two former not so liable, with perfect consistency.

It may still be useful to consider how the question of the payment might have been adjusted at the time of the abolition of the pilgrim tax.

The maximum amount of the annual expenses of the temple was fixed by the Government, in 1808, at 56,342 sicca rupees; at the same time the receipts of the temple were calculated at 30,884 sicca rupees, leaving 25,458 sicca rupees to be made good by the Government, besides an annual supply of 484 yards of woollen cloth.

But two items were included in the calculation of expenses which had no connexion with the temple, viz.:

A donation for the support of pauper pilgrims	- - - -	Sic. rs. 2,500	See Letter from Commissioner of Cuttack, dated 15 Sept. 1837.
And the expense of a Mohun Bhoge established by the mother of Rug- gojee Bosla	- - - - -	5,000	
	Sic. rs.	7,500	
		56,342	
		30,884	
		25,458	

Which being deducted, the temple expenses are reduced to 48,842 sicca rupees.

On the other hand, a deduction must also be made from the receipts, as an assignment had been made on certain lands for the special purpose of defraying the expense of the Mohun Bhog.

The receipts, therefore, would be 25,884 sicca rupees, and the amount to be paid by Government (exclusive of the woollen cloth) 22,958 sicca rupees.

But since the Government in 1809 took the collection of the entire funds of the temple into its own hands, it became answerable for the whole expense, viz., sicca rupees 48,842, or Co's rupees 52,098. 12. 3. to which being added 1,080 Company's rupees, the value of the woollen cloth to be supplied, the total annual expense devolving on the Government was Co's rupees 53,178. 12. 3.

The Suttaees Huzareh Mehal has now been transferred to the Rajah of Khoordah, the superintendent of the temple, on which account the following deduction is to be made from the above sum:

	Co's rs.		
Annual produce of the mehal	- - - -	17,001	10 8
Repair of embankments executed by Government	- -	418	7 8
		17,420	2 4

Which reduces the annual payment to Co's rupees 35,758. 9. 6.

But this balance again is liable to deductions on several accounts. First, for the fees of the priests of the temple, the exact nature of which I do not clearly comprehend. The Commissioners of Cuttack, after adverting to the tax of 11 rupees levied from the pilgrims on account of Government, state, "The offerings given within the walls of the temple by the pilgrims to the priests and officers of Juggernauth, are exclusively for the expenses of the temple and its establishment of officers," &c. And in a subsequent communication they say, "It appears that heretofore the sum of 11 rupees was levied by Government on Laal Jatrey, or pilgrims of a certain class and description, on their reaching Juggernauth, previous to their arrival at the temple, where a further sum of two rupees was given to the officers of the temple, making the whole sum 13 rupees."

Mr. Græme in his statement of the endowments of the temple, after enumerating six heads, amounting to 47,877 sicca rupees, adds a seventh in these words, "And upon every Lall Jattrey, 15 annas."

During the investigations of 1806, the collector of the tax was directed by Government to ascertain the fees theretofore received by the ministers and officers of the temple, with a view to determine whether they should be paid separately or included in the tax, and "proportionable allowances assigned to the officers from the public treasury." The collector proposed that the "fees of the Pundas, &c. should be publicly fixed, and collected by the

See Letter from  
Bengal Govern-  
ment, dated 11  
March 1844 paras.  
11 & 16.

Pp. 26. 35 & 37, c.f  
the collection above  
quoted.

P. 39, of the collection before quoted.

Pundas themselves, separate from the tax, as was formerly done under the Mahratta Government," "as the pilgrims would never be well treated by their conductors, unless they receive a present from their own hands." This was approved by Government, and the collector was ordered to fix the rates at which such fee should be levied, and publish the rates for general information at the temple and in its vicinity, and to report the rates so fixed for the confirmation of Government. In another letter the collector states that "the Purchas receive fees upon all presents made to the god."

Section 6 of Regulation IV. 1806, enacted that the pilgrim tax "is to be considered to include the usual fees of the officers of the temple, and these fees shall in future be paid to them out of the funds which have been or may be assigned for the support of the temple. Provided, however, that this rule shall not be considered applicable to the officers denominated Purharees and Pundahs, who shall be entitled to receive, in conformity to established usage, a fee from the pilgrims, according to a table of rates, which shall be kept fixed at the temple of Juggernaut, and in places adjacent to the temple for general information. The officers attached to the temple are accordingly strictly prohibited from making any demands for money exclusive of the tax and fees specified in this and the preceding sections."

Section 18 of the same Regulation provided that "such salaries shall be allowed out of the funds to be assigned for the support of the temple. \* \* \* To the ministers and officers of the temple, as the Governor-general in Council may hereafter think proper to fix for their support."

Regulation IV. 1809, which repealed Regulation IV. 1806, contained no provisions on these points.

It does not appear from the collector's letter of the 19th December 1807, that the fees of the priests were included in his calculation of the income of the temple, but the statements which accompanied that letter are not available for reference. The amount credited in the Government accounts under the head of "Russoom (fees) of Purharrees and Pundahs," during the last 10 years of the existence of the tax, was 3,040 Company's rupees per annum.

Excepting 1829-30 and 1831-32, when it was 4,818 and 3,546 Company's rupees respectively.

As the levying of fees from the pilgrims resorting to Juggernaut was prohibited by Act No. 10, of 1840, it may be a question whether this item should be deducted from the sum now payable by Government. Being a long-established usage, the reason of the prohibition does not clearly appear, and probably the consequences were not foreseen at the time: such a prohibition is really nugatory, as in one shape or other the pilgrim will always be made to surrender whatever property he may carry with him to the temple, and if necessary it can be repealed.

The second item to be deducted is the sale proceeds of the Mahapershaad or food that has been placed before the idol. The annual receipt under this head, during the last ten years of the tax, was annually 4,048 Company's rupees.

Excepting in the years 1830-31 and 1831-32, when it was 4,081 and 4,054. From 1208 to 1212, Willayety, these receipts were,

A third item is the proceeds of sale of old ruths and other materials. These receipts are duly entered in the Government accounts, but I have not ascertained the exact amount. In the statement submitted by the collector, in May 1807, for the preceding five years (1208 to 1212 Willayety) the proceeds average 388 rupees.

A fourth item, which ought to be allowed for, is the value of offerings made to the idol, and fees levied on presenting those offerings. In the Jumma Khurruch account forwarded by the collector, with his letter of the 6th May 1807, I find the following entry:

Dhujia Pandika, or presents and fees on presenting presents.

	Sic. rs.
1208	- 5,484
1209	- 5,294
1210	- 4,919
1211	- 4,918
1212	- 4,877

Willaity.	Sic. rs.
1208	- - - - - 988
1209	- - - - - 1,141
1210	- - - - - 1,407
1211	- - - - - 1,215
1212	- - - - - 1,669

And, in the column of remarks, "Liable to fluctuate excessively, and most probably worth at least four times the amount credited, if honestly accounted for."

In his subsequent letter of the 19th December of the same year, he says, paras. 19 and 20, "With the consent of the Purchas, I deputed an Ameen to oversee and state the quantity and value of cloth presented for the purpose of being displayed on the wheel at the top of the temple, on which Government receives, from the person presenting, its full value, as a fee, under the head of Dhujja, exclusive of which the presenter has also to pay the fee of the Purchas and others for their ministry during the ceremony. Another Ameen was deputed to ascertain the quantity of voluntary presents made at the throne of Juggernaut in cash, bullion, and jewels, the whole of which, under the title of Pinduka, should be brought to the credit of Government, but the result of these measures has not given me any information of value."

Nothing appears at credit in the Government accounts, under the title of offerings; if anything has been realized in this shape it must have been in very small sums, and is mixed up with the proceeds of sale of the Muhapershaud.

Under sect. 4, Reg. IV. 1809, it was the duty of the Suttaees Huzareh Purcha to give an account to the collector of the tax of all offerings and presents made to the idol. It is incredible that the voluntary offerings at so celebrated a place of pilgrimage should be few or of little value, and it may be reasonably presumed that in respect of this source of income, so little susceptible of check, there has been extensive misappropriation.

Supposing

Supposing then that the Suttaees Huzareh Mehal had been transferred to the Rajah of Khoordah, on the abolition of the pilgrim tax, and proper deductions made from the annual payment on account of other items of the temple funds, the amount of that payment would have been reduced to a sum of about 28,000 Company's rupees, without allowing for offerings.

Now the annual amount of the pilgrim tax, on an average of the collections of the 11 last years preceding the abolition, was 95,389 Company's rupees, and it is not unreasonable to suppose that the greatest part, if not the whole of this sum, would after the abolition find its way to the temple in some shape or other. This consideration, without anticipating an augmentation of income from an increase in the number of pilgrims consequent on the abolition of the tax (an increase which we find has taken place), should surely have been sufficient to allay apprehension that the discontinuance of an annual payment of 28,000 Company's rupees would have left the resources of the temple in so crippled a state, as to give just cause of complaint that the Government had disappointed the expectations of the Hindoo community in withdrawing the necessary support from the institution.

But this sum could not have been withdrawn altogether, inasmuch as compensation was due to the temple, on account of some of the sources of its income having been abolished by the Government. In the abstract Jumma Khuruch, forwarded by the collector in May 1807, the sayer of the last year of the series 1212 Willaity (A.D. 1804-5) is entered at cowries 16,379. 8. 6. khus., or sicca rupees, 4,094. 13. 3. And in the column of remarks it is stated, "These saers have within a few days been abolished by the magistrate, except two, which are entirely within the temple, amounting to about 5,100 khur (1,275 sicca rupees). The magistrate says the balance \* is claimable from Government."

Again, in his letter of the 19th December of the same year, with which he submitted the statements of receipts and expenses of the temple for the preceding six years, and in which he calculated the average income of the temple for that period at sicca rupees 30,864. 12. 13., he makes the following remarks :

"The whole of the collections under the head of Sayer have been resumed, with the exception of the collection of the six Bhoges ; this is a tax paid on the sale of Mahpershaud within the temple ; but the head being, "Town Duties and Collections on the six Bhoges," the amount will be much diminished, for the town duties are abolished."

"The amount, Appendix No. 8, exhibits the assignments for defraying the charges detailed in Appendix 9, with the exception of two articles (both which are of the nature of sayer, and must be eventually abolished). The Commissioners resumed the whole, and threw them into the Khyrath Gundee account of the district ; the expense will therefore be paid by Government from that department in future."

And again, speaking of the annual expenses of the temple, which he calculated, on the average of the six years, at 65,995 sicca rupees, he says :

"Exclusive of these expenses is one for the repairs of the temple itself, which was formerly defrayed by an abwaub denominated Kurrembaree. It appears not to be fixed in its amount, nor can I learn what the gross amount of the collection was ; but in future, such repairs as are necessary must be made at the expense of Government, as the abwaub is consolidated in the land revenue."

Further, it will be observed that in Mr. Græme's statement, prepared in 1805, the khunjahs or money assignments of pergunnahs in the Mogulbundee are stated at 17,177 sicca rupees, and the khunjahs or claims on rent-free lands and villages in the Mogulbundee, at 7,276 sicca rupees, aggregating 24,453 sicca rupees : whereas the tunkee rents and assignments now made over to the Rajah of Khoorda amount to 6,922 Company's rupees only.

This may be in a great measure accounted for by some of the assignments having been brought on the general rent-roll of Government.

The collector of the tax, in his letter of the 19th December 1807, stated that several of the assignments had been brought on the jumma of the district, and recommended that the remainder should be dealt with in the same way ; which, as has been before stated, met with the approval of Government.

The Commissioner of Cuttack, in his letter of the 26th August 1843, adverting to this proposition, observes :

"Whether this scheme was fully carried out or not, I cannot distinctly ascertain. The amount of khunjahs and quit-rents now collected by the Government officers, on account of the Suttaees Huzareh Mehal, amounts to only 6,922 rupees ; and it may be therefore inferred that the remaining khunjahs were included in Mr. Buller's settlement." He adds : "A great quantity of the land assigned for the support of the temple has been either incorporated by the zemindars with the ryotty lands, and has been since brought on the Jumma bundee, or has been usurped by the lakhirajdars."

Judging from Mr. Græme's remarks, the embezzlement of some of the endowment lands by the officers of the temple in charge of them commenced before our acquisition of the province.

It is to be regretted that we have not before us the statements of the receipts of the temple which accompanied the collector's letter of the 19th December 1807, for the purpose of comparison with Mr. Græme's previous statement of 1805 ; the latter giving 47,877 sicca rupees as the annual income of the temple, besides a tax of 15 annas on every Lall Jattrey ; the former only 30,864 sicca rupees. But enough has been stated to show that

	Co's. rs.	a.	p.
Sum given above	-	-	35,758 9 6
Priests' fees	-	-	3,040
Sale of food	-	-	4,048
Sale of ruths, &c. (say)	-	-	400
			<hr/> 7,483 - -
			<hr/> 28,275 9 6

Sic. rs.	a.	p.
* 4,094	13	3
1,275	-	-
	<hr/> 2,819	13 3

Pp. 64, 66, collection of printed papers.

17,177
7,276
<hr/> 24,453

All the records relating to Cuttack, which were formerly in the Revenue Board, are now in the Commissioner's office at Cuttack.



a considerable sum must have been set aside from the Government payment of 28,675 rupees as an equivalent for the resumed revenues of the temple, putting it still further beyond doubt that on the abolition of the pilgrim tax the temple might safely have been left to its own resources, and a most desirable result have been attained in the complete separation of the Government from all connexion with it.

Under present circumstances such an object is more difficult of attainment, yet I still entertain a hope that it is not altogether beyond reach. I would willingly agree to an adjustment on the principles above described, calling for the necessary information for the purpose of determining the proper amount of compensation for the temple revenues resumed by the Government; and I should also be prepared to acquiesce in the proposition of the Bengal Government to effect the adjustment by a transfer of land.

(signed) *F. Millett.*

MINUTE by the Honourable *W. W. Bird*; dated the 4th July 1844.

Juggernaut.

AFTER perusing Mr. Millett's valuable Minute, I have reconsidered with the utmost care the whole question connected with the temple of Juggernaut, and I have come to the following conclusions:

That no pledge to continue the donation in perpetuity can be elicited from the correspondence.

That neither the British Government on the one hand, nor the superintendents of the temple on the other, ever contemplated the continuance of the donation, except in connexion with the pilgrim tax, to which both looked as the only foundation for its permanency.

That the Government being thus free from all pledge, is at liberty to withdraw itself from all connexion with the temple, to withhold all pecuniary support which does not properly belong to it, and to leave the superintendents to levy their own fees and manage their own affairs, as in all other religious institutions throughout the country.

That the tax having been abolished, there is no longer any legitimate source from whence the donation can be paid; and that its payment is uncalled for, inasmuch as the pilgrims, on visiting the temple, are compelled to surrender, as before, everything that belongs to them.

That the proper foundation on which the temple should rest is its own endowments, and the fees and offerings of its votaries; that the Suttaees Huzaree estate, and all other lands, resumed or otherwise, to which it may have any just claim, should be relinquished or compensated for, and that all interference on the part of Government in the management of its affairs, and all contributions for its support, should be for ever discontinued.

Having come to these conclusions, I beg leave to make the following propositions:

That the donation paid by Government for the support of the temple of Juggernaut, out of the general resources of the State since the abolition of the pilgrim tax, be continued no longer.

That such part of Act X. 1840, as prohibits the levying of fees from the pilgrims, on the part of the priests or other officers of the temple, be rescinded.

That the ministers of the temple may be authorized to levy from the pilgrims such religious fees as may be consistent with former usage, and that all lands originally belonging to the temple which upon inquiry may be found to have been improperly resumed or alienated, be restored, or if restoration is impracticable, that other lands of equal extent and value be assigned to it in their stead.

By these means we shall be able, without any breach of good faith, to get out of the singular and discreditable situation in which we are placed, of having taken upon ourselves the payment of an equivalent for the religious fees of an idolatrous temple, in order that the resort to it on the part of its worshippers may be easy and inviting. The pilgrims will have to pay no more than they already do, namely, whatever can be exacted from them by the ministers of the temple, as at every other shrine; and the temple will recover the natural and indefeasible right, exercised at every other place of Hindoo worship in India, of fixing its own price on the enjoyment of the religious benefits which are supposed to belong to it.

(signed) *W. W. Bird.*

MINUTE by the Honourable *T. H. Maddock*; dated 8 July 1844.

Affairs of the temple of Juggernaut.

Lord Ellenborough's Minute, dated 11 April 1844; Mr. Bird's Minute, dated 15 April 1844; Mr. Millett's Minute, dated 3 July 1844; Mr. Bird's Minute, dated 4 July 1844.

SINCE the last meeting of Council, I have given my best attention to the subject to which the papers noted in the margin refer, and as, unfortunately, I cannot concur in the proposition submitted by the Governor-general in his last Minute, dated the 4th instant, I will endeavour to show sufficient reasons for not adopting the course recommended in that paper.

It may be observed, *in limine*, that Mr. Bird's first proposition in his Minute, dated 15th April 1844, was to make compensation to the temple of Juggernaut for the money allowance now paid out of the public treasury, by an assignment of lands, the yearly income of which would equal the amount of the present yearly allowance. In his last Minute, dated the 4th instant, Mr. Bird advocates another course of proceeding; viz. the total discontinu-

ance

ance of any Government support to the temple, the rescinding of so much of Act X. of 1840 as prohibits the superintendent and the priests of the temple from levying fees from the pilgrims who resort to it, and restoring all lands which have been illegally or improperly resumed from it.

I am not aware that any new facts have been elicited in the interval to have led the Governor-general to the conclusion that Government is free from all pledge to support the temple, is at liberty to withdraw from all connexion with it, and to withhold all pecuniary support which does not properly belong to it.

It is true that Government has given no written bond of perpetual support to the temple of Juggernath, but no one can read the instructions of Lord Wellesley on the subject, both before and after our occupation of the province of Cuttack, and the correspondence of the Commissioners as quoted in the report of the Deputy Governor of Bengal, dated the 11th of March last, without being convinced that it was the intention of the Government of that day to afford to the priests of the temple, and through them to the whole Hindoo community, the fullest assurance that words could convey, of our continued favour and protection, and that the "position which the British Government had then assumed entitled the priests to look to it as a matter of course, for the full amount of pecuniary assistance which they had been accustomed to receive from their own national governors;" and this, too, before we had re-established the tax on pilgrims, which does not appear to have been collected in the first year of our rule.

This position was further confirmed by Regulation XII. of 1805, which, without any reference to the pilgrim tax, which was not then re-established, styles our donation to the temple "the established donation for the support of the temple of Juggernath," and exempts it as such from the operation of the laws regarding the resumption of religious pensions and allowances generally.

Under such circumstances, a great government cannot consistently affirm that it is under no pledge for the perpetual support of this institution, or that the continuance of the "established donation" was never contemplated by either party but in connexion with the pilgrim tax, seeing that this donation was regularly paid, even while the pilgrim tax was discontinued. And much less are we now in a position to make such affirmation, having only four years ago confirmed our responsibility for this donation as an obligation on the Government, fulfilled without demur for 35 years, quite distinct from the pilgrim tax, and acknowledged and confirmed at the very moment of abolishing that tax.

For these reasons I am not now, more than when I last stated my opinion on this point, willing to admit Government to be free from all pledge to protect and support the temple of Juggernath, or, in the words of the Governor-general, "free from all pledge, is at liberty to withdraw itself from all connexion with the temple, to withhold all pecuniary support which does not properly belong to it, and to leave the superintendents to levy their own fees and manage their own affairs, as in all other religious institutions throughout the country."

To such a course of argument the advocates of this establishment, and the whole Hindoo population might fairly reply, that the British Government, in its earlier career, found it necessary to court the Bramins of Juggernath and took them under its protection, and held out to them promises of perpetual support; but that now that it has gained every advantage that was expected from their influence and goodwill, and no longer requires their assistance, it is anxious to discard them; and having made a bad bargain with the Bramins in 1840, is now anxious to throw upon the people the burden of contributing to their support, instead of continuing its own established donation for the purpose.

It would at least be consistent with justice, when considering the degree of obligation under which the British Government lies to one of the principal religious institutions of the great body of its subjects, to allow the other party a hearing on the point; and I have always thought, that before the adoption of such decisive measures with regard to the pilgrim tax as were effected by Act X. of 1840, it would have been well to consult the persons most interested in the question, although the Brahmins were not aggrieved by the abolition of the tax, as the same allowance has been since made to them by Government as that which they received before, and the people at large derived positive benefit from the abolition. But if I then thought we should have acted in concert with the superintendent and priests of the temple, much more do I think that it will now be becoming in Government, when it is considering whether, having discontinued the present established donation in money, it shall substitute for that donation an assignment on the revenue, or a free licence to levy what fees they can from the Hindoo population, to give the superintendent and priests of the temple of Juggernath an opportunity of expressing their sentiments on the subject.

I have already stated in my minute, dated the 20th April last, that I look upon the substitution of an assignment on the land revenue for the present money payment to the temple of Juggernath as a mere expedient for seeming to withdraw our patronage while virtually we continue the same extent of support as before. Such a mode of evading the money payment could be satisfactory only to those who are ignorant that the temple of Juggernath is only one out of innumerable Hindoo temples, the establishments and the worship of which are partly maintained by money payments from the public treasury; and it cannot be proposed to commute all these payments in a similar manner, though there is no other reason for making Juggernath an exception than such as arises from its greater celebrity, and from the notoriety of the Government's late connexion with its management.

The fact of that connexion with an idolatrous institution was the original cause of offence and animadversion in England, which led to the abolition of the connexion by Act X. of



1840; and it might have been supposed that that measure would have satisfied the scruples of the most earnest objectors to the connexion, had they known that our present relation to the temple of Juggernath is become the same as that in which we stand to all the religious institutions in the country; that is to say, that we, as rulers of the country, are guarantee for the permanency of their endowments, whether those endowments consist of grants of money from the Treasury, or grants of land made by former sovereigns of the country; that is to say, of very moderate appropriations for the maintenance of the religious institutions of the Hindoos, or a trifling fraction taken from the aggregate of the revenues contributed by these same Hindoos to the general service of the State, to defray the charges of their religious establishments.

Before the passing of Act X. of 1840, I should have preferred to the arrangement then made, an amicable accommodation with the superintendent and priests of Juggernath, which would have relieved the Government from all further payments in support of the endowment, by permitting the priests to levy certain fixed fees on pilgrims, as an equivalent to the established donation from the Government; and this might have been then effected without any legislative enactment, merely by the Government ceasing to collect the tax, and authorizing the superintendent and priests to collect such fees as had been customary under former dynasties. But even that measure would have been highly unpopular among our Hindoo subjects, inasmuch as it would have announced to them the withdrawal of our support to the institution after an uninterrupted patronage of it for 35 years. The Act of 1840 was rendered popular by its relieving the people from the former impost on pilgrims; and it was made acceptable to the privileged class, who preside over the affairs of the temple, by continuing to them the pecuniary support of Government, while it probably enabled them to draw more from the pilgrims than they could afford to pay while subject to the tax. The measure now proposed by the Governor-general would offer no advantage to the people; and, while it left them to the almost uncontrolled exactions of the Bramins, must convey to their minds the idea that Government, in withdrawing the support which it had hitherto afforded to the priests, and in revoking the boon accorded to the people by Act X. of 1840, has, for the first time, exhibited a total disregard to the interests of both parties. And the difficulty now attending the proposed measure must be enhanced by the necessity of legalizing the imposition of fees in consequence of their having been prohibited by that Act; and if fees on any scale are to be made legal, they must be defined in such a way as would, under the intervention of our legal officers, and, of a consequence, our interposition in the affairs of the institution, more direct and more complicated than they ever can be under the system now existing. Otherwise we must incur the odium of leaving the people without protection against any imposition which the priests may think fit to lay upon them.

Taking into consideration these objections to the measure proposed by the Governor-general, I am the more reconciled to the plan adopted under Lord Auckland's administration, which exempted pilgrims from arbitrary exactions, and left them free access to the temple of Juggernath, subject only to such donations as they would voluntarily make.

According to the propositions now before us, if this Government is to take any further step in the matter, the choice seems to be between the adoption of the Governor-general's last proposition, or the commutation of the present money donation to the Juggernath establishment into an assignment in the revenues; that is to say, a grant of land which will produce an income equal to the Government donation. I have stated the objections which I see to either of these measures; to the first, because of its exceeding unpopularity in withdrawing from the people the protection which has hitherto attended their pilgrimage to Juggernath ever since our acquisition of the province of Cuttack, and leaving them a prey to the unchecked exactions of the priests of the temple; and to the second, on account of its utter nullity and pretence of altering the relation of Government towards the Juggernath endowment, while that relation, as far as support and patronage are concerned, would remain unchanged; and I am fully convinced in my own mind, that the fairest and wisest course for the present Government to adopt is to let the present arrangement remain as it is.

If my colleagues are of a different opinion, I would suggest that, as there is no pressing urgency for immediate action, and as this is really a question of very great political importance, it might not be unwise to let the further discussion of it lie over till it can be considered in a full Board; or, as I do not perceive from the letters of the Honourable Court of Directors, of the 4th April and 6th December 1843, that we are called upon to legislate or to take any further steps whatever in this matter, and are merely directed to answer certain queries, founded upon a pamphlet published last year in London, to which we have now the means of replying, I would propose to transmit all the papers now before us to the Honourable Court for their consideration, and await their further orders.

I may be permitted to add, that legislation on subjects of this nature ought to be avoided as much as possible, and that, if the Home authorities should decide upon making any alteration in the present state of our relation to the temple of Juggernath, they cannot adopt the Governor-general's last proposition without an enactment, but have the option of commuting the money allowance of Juggernath into a grant of land.

The Honourable Court of Directors are well aware how much the permanent security of our empire in India depends upon our continuing to maintain, as heretofore, the religious institutions of the people, and all their endowments, as we found them in existence; and though there may be persons both in this country and in England who, ignorant of the consequences that might result from any persecution of the national religion, would gladly see the established allowance to the temple of Juggernath discontinued,—with whom the

measure

measure now under consideration would be popular,—I think that if popularity ought ever to be an object with such a government as that of India, we have first to conciliate the goodwill of our Indian subjects, and look, in all our measures, to their contentment and happiness. And as it is manifest that we cannot wean them, but slowly and gradually, from their ancient superstitions, we cannot be too cautious how we offend their prejudices, or make them suspect that we design to deprive their religion of the toleration and protection which we are understood to have guaranteed to it, and which every government is bound to afford to the religion of its subjects.

It is their confidence in this protection that has hitherto kept the Bramins faithful subjects of the British Government, and has secured the fidelity and attachment of the native army, composed chiefly of Hindoos. This is not the time to try hardly the loyalty of these or any other classes of our subjects, and I trust the Home authorities will agree with me in thinking that we have done enough in separating ourselves from all concern in the collection of the pilgrim tax, and the management of the temple of Juggernaut, and that, whether the arrangement of 1840 was or was not the best that might have been made, it is inexpedient now to agitate the question and disturb men's minds with the fear of further change, and of change which may be detrimental to the interests of the people.

(signed) *T. H. Maddock.*

### Appendix, No. 3.

#### EXTRACT LEGISLATIVE CONSULTATION, 15 March 1845.

(No. 230.)

(No. 16.)

From *G. A. Bushby*, Esq., Secretary to Government of India, to *F. J. Halliday*, Esq., Secretary to Government of Bengal; dated 15 March 1845.

Sir,

WITH reference to your letter No. 177, dated the 11th March 1844, I am directed by the Governor-general of India in Council to forward to you the accompanying copy of a despatch from the Honourable the Court of Directors, dated 18th December 1844, No. 25.

2. You will be pleased, with the permission of the Right honourable the Governor of Bengal, to call for a report respecting any land that may formerly have belonged to the Juggernath temple, and which may now be made over for the purposes of that temple in commutation of the present annual allowance of money paid by Government.

I have, &c.

Council Chamber,  
15 March 1845.

(signed) *G. A. Bushby*,  
Secretary to Government of India.

## PART III.

## Religious Ceremonies.

— No. 1. —

(No. 20 of 1841.)

Legislative Department, 13 Sept. 1841.

To the Honourable the COURT OF DIRECTORS of the EAST INDIA COMPANY.

Honourable Sirs,

Leg. Cons. 31 May  
1841, Nos. 1 & 2.  
Leg. Cons. 2 Aug.  
1841, Nos. 13 &  
14.  
Appendix, No. 1.

WE forwarded copies of your despatch, No. 11, dated the 31st March last, to the several local governments, and have now the pleasure to transmit a communication from the Madras Government, enclosing its orders for the discontinuance of all presentations or offerings on the part of Government at native festivals, and prohibiting the attendance of troops and military bands, and the firing of salutes, at such festivals.

We have, &amp;c.

(signed)	<i>Auckland.</i>	<i>W. Casement.</i>
	<i>T. Nicolls.</i>	<i>H. T. Prinsep.</i>
	<i>W. W. Bird.</i>	<i>A. Amos.</i>

Fort William, 13 Sept. 1841.

— No. 2. —

(No. 71.)

EXTRACT POLITICAL LETTER from *Fort William*, dated 22 December 1841.

P. Cons. 2 Aug.  
1841, Nos. 62 to  
64.

List, No. 95.  
Appendix, No. 2.

Para. 140. WITH reference to the instructions of your Honourable Court, communicated by the adjutant-general of the Madras army to the commanding officer of the Nagpore subsidiary force, directing the discontinuance of the attendance of troops or of military bands at native festivals or ceremonies, and the firing of salutes on such occasions, the resident having requested the orders of Government for his guidance in regard to the observance of the course prescribed with respect to the celebration of the Dusserah, at which it had been usual for the British functionaries, and a considerable portion of every arm of the subsidiary force, to meet the Rajah, it was observed in reply, that the orders of your Honourable Court, prohibiting the Company's officers from participating in the religious ceremonies of the natives of India, were to be strictly obeyed, and the resident was directed to shape his accustomed attendance, and that of the troops at Nagpore, upon the Rajah, at the anniversary of the Dusserah, in the manner prescribed by your Honourable Court; and so that while all personal honour should be paid to his Highness, neither the resident, nor any part of the subsidiary force, should be present upon duty at the performance of religious ceremonies.

— No. 3. —

(No. 2.)

Legislative Department, 1 February 1842.

Our GOVERNOR-GENERAL of *India* in COUNCIL.

Para. 2. Fort St. George Revenue (Secretary's) Letter, 16 March (No. 13) 1841.  
 Whole. „ Military Letter - - - 26 March (No. 12) „  
 „ „ „ - - - 17 August (No. 36) „  
 „ India Legislative Letter - - - 13 September (No. 20) „

1. We have received your letter of the 13th September last (No. 20), with its Religious ceremonies of the natives. enclosures, relative to the discontinuance of offerings, and of the attendance of troops at any native festivals under the Presidency of Fort St. George, and have to express our entire approbation of the manner in which effect has been given to our orders on this subject.

2. We feel assured of your taking care that those orders are equally observed at the other Presidencies.

We are, &amp;c.

(signed) *G. Lyall,*  
*J. L. Laushington,*  
 &c. &c. &c.

London, 1 February 1842.

## APPENDIX TO PART III.

## Appendix, No. 1.

## ENCLOSURES to LEGISLATIVE LETTER, 13 September (No. 20) 1841.

## EXTRACT LEGISLATIVE CONSULTATION, 31 May 1841.

From *T. H. Maddock*, Secretary to the Government of India (No. 73), to *H. Chamier*, Esq. Chief Secretary to the Government of Fort St. George, and (No. 74) *L. R. Reid*, Esq. Chief Secretary to the Government of Bombay, dated 31 May 1841.

Leg. Dept.

Sir,  
In continuation of my letter, No. 58, [No. 59], from the Revenue Department, dated the 3d instant, I am directed to forward to you, for the information of the [Right] Honourable the Governor in Council, the accompanying copy of a despatch from the Honourable the Court of Directors, dated the 31st March (No. 11 of 1841), with the request of the Right honourable the Governor-general of India in Council, that the instructions therein contained may be carried into effect in such a careful and judicious manner as, without involving any serious delay, may, in the opinion of the [Right] Honourable the Governor in Council, seem best fitted to fulfil the intentions of the Honourable Court, as expressed in the last paragraph of the despatch.

Fort William, 31 May 1841.

I have, &c.  
(signed) *T. H. Maddock*,  
Secretary to the Government of India.

## (No. 2.)

From *T. H. Maddock*, Esq. Secretary to the Government of India (No. 78), to *F. J. Haldiday*, Esq. Secretary to the Government of Bengal, and (No. 72) *J. Thomason*, Esq. Secretary to the Government of North-western Provinces, dated 31 May 1841.

Leg. Dept.

Rev. dated 3 Mar.  
1841, No. 2.  
Leg. dated 31 Mar.  
1841, No. 11.

Sir,  
I AM directed by the Right honourable the Governor-general of India in Council to forward to you, for the information of the Right honourable the Governor of Bengal, [Honourable the Lieutenant-governor] and for such orders as may be considered necessary, the accompanying copies of two despatches from the Honourable the Court of Directors, dated and numbered as per margin.

Fort William, 31 May 1841.

I have, &c.  
(signed) *T. H. Maddock*,  
Secretary to the Government of India.

## EXTRACT LEGISLATIVE CONSULTATION, 2 August 1841.

## (No. 13.)

## (No. 921.)

From *H. Chamier*, Esq. Chief Secretary to the Government of Fort St. George, to *T. H. Maddock*, Esq. Secretary to the Government of India, dated 6 July 1841.

Rev. Dept.

Sir,  
1. I AM directed by the Right honourable the Governor in Council to acknowledge the receipt of your letter (No. 73), dated 31st May 1841, and, in reply, to request the Government of India may be referred to the accompanying copy of a letter, addressed to the Board of Revenue, under date 6 April last, ordering the discontinuance of all presentations in the shape of offerings, on the part of Government, at native festivals, from which it will be observed that the orders of the Honourable the Court of Directors have been anticipated in this instance.

2. An extract (paragraphs 1 to 4, and paragraph 6) of the despatch, a copy of which accompanied your letter, on the subject of escorts and salutes on the occasion of native festivals, having been communicated to the Military Department for disposal, I am directed to transmit to you a copy of the letter addressed under this date, in that department, to the major-general commanding the army in chief.

Fort St. George, 6 July 1841.

I have, &c.  
(signed) *H. Chamier*,  
Chief Secretary.

## REVENUE DEPARTMENT.

(No. 465.)

(No. 14—Enclosure.)

From *H. Chamier*, Esq. Chief Secretary to the Government of Fort St. George, to the President and Members of the Board of Revenue, dated 6 April 1841.

Gentlemen,

WITH reference to the orders of Government, under date the 13th ult., No. 345, I am directed by the Right hon. the Governor in Council to request that instructions may be issued to the collectors in the provinces for the general discontinuance of all presentations in the shape of offerings, on the part of Government, at native festivals, if any such practices should still obtain.

(signed) *H. Chamier*, Chief Secretary.

Fort St. George, 6 April 1841.

## MILITARY DEPARTMENT.

(No. 2,558.)

From Lieutenant-colonel *S. W. Steel*, Secretary to the Government of Fort St. George, to Major-general Sir *R. H. Dick*, K.C.B. and K.C.H., commanding the Army in Chief, dated 6 July 1841.

Sir,

UNDER instructions from the Honourable the Court of Directors, conveyed through the Government of India, I am directed to intimate to you that the attendance of troops or of military bands at native festivals or ceremonies, and the firing of salutes on occasions of that nature, are in future to be discontinued, with the object of separating the Government and its officers, as far as possible, from all connexion with the ceremonies of the Hindoo and Mahomedan religions.

2. With this view, the attendance of British functionaries or troops upon native princes to the places in which any of their religious ceremonies are performed will be discontinued, but the attendance will be given, and all customary marks of respect paid at the palace or place of residence of those native princes who have been heretofore accustomed to that distinction on the occasions of their going forth and returning from such festival or religious observance.

3. No troops or military bands of music will in future be called out, and no salutes fired in honour of the festivals themselves.

4. The Right honourable the Governor in Council has directed me to express his wish that the importance of effecting these changes from former practice, in a manner calculated not to alarm the minds of the natives, or offend their feelings, may be strongly impressed upon all officers in command of troops.

5. I am further instructed to convey to you the desire of the Right honourable the Governor in Council that these orders may be issued to the officers commanding divisions and forces, in the form of a circular letter, and promulgated in the same manner to officers commanding corps and detachments under their command.

(signed) *S. W. Steel*, Lieut.-col.  
Secretary to Government.

Fort St. George, 6 July 1841.

(True copies.)

(signed) *H. Chamier*, Chief Secretary.

## Appendix, No. 2.

ENCLOSURES to INDIA POLITICAL LETTER, 22 December (No. 71) 1844.

EXTRACT FORT WILLIAM POLITICAL CONSULTATION, of 2 August 1841.

(No. 62.)

From the Resident at Nagpore to *T. H. Maddock*, Esq. Secretary to the Government of India, at Fort William, dated 22 July 1841.

Sir,

I HAVE the honour to state, for the information of the Right honourable the Governor-general of India in Council, that during the whole period Mr. Elphinstone was resident at this court, and up to 1818, whilst Mr. Jenkins was resident, it was customary for the resident

dent and his suite, with the mounted portion of the escort, to meet the Rajah in a field near the city, and remain in attendance on him whilst he performed part of the Dusserah ceremony. From 1818, the year in which the present Rajah was elevated to the Guddee, up to this time, not only the resident and his suite, but a considerable portion of every arm of the subsidiary force, has met the Rajah in the same field at the Dusserah, and continued there until the usual ceremony was completed. From the accompanying circular, addressed to the commanding officer of the Nagpore subsidiary force by the Adjutant-general of the Madras army, dated the 8th instant, it appears that the attendance of British functionaries and troops is to be discontinued. As I have not, however, received any communication from the Supreme Government on the subject, I will be obliged to you to solicit for me the instructions of the Right honourable the Governor-general in Council for my guidance.

I have, &c.

(signed) *T. Wilkinson*, Resident.

Nagpore Residency, 22 July 1841.

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Document alluded to in the foregoing Letter.

(No. 3,465—Circular.)

(No. 63)

From the Adjutant-general of the Army, Fort St. George, to the Officer commanding Nagpore Subsidiary Force, dated 8 July 1841.

Sir,

By order of the officer commanding the army in chief, I am directed to intimate to you that under instructions from the Honourable the Court of Directors, conveyed through the Government of India, the attendance of troops or of military bands at native festivals or ceremonies, and the firing of salutes on occasions of that nature, are in future to be discontinued, with the object of separating the Government and its officers, as far as possible, from all connexion with the ceremonies of the Hindoo and Mahomedan religions.

2. With this view the attendance of British functionaries or troops upon native princes to the places in which any of their religious ceremonies are performed will be discontinued, but the attendance will be given, and all customary marks of respect paid at the palace or place of residence of those native princes who have been heretofore accustomed to that distinction, on the occasions of their going forth and returning from such festival or religious observance.

3. No troops or military bands of music will in future be called out, and no salutes fired in honour of the festivals themselves.

4. In effecting these changes from former practice, you will be good enough to guard most carefully against anything that can insult, alarm, or offend the feelings of the natives; it will not be necessary to issue any orders on the subject, but simply to discontinue those that have been customary, and thus quietly, and, if possible, without any particular notice, to allow them to fall into desuetude.

5. The officer commanding the army in chief also directs me to request that you will be good enough to communicate these instructions by circular letter to officers commanding corps and detachments in the force under your command.

I have, &c.

(signed) *R. Alexander*, Lieutenant-colonel,  
Adjutant-general of the Army.

Fort St. George, Adjutant-general's Office, 8 July 1841.

(A true copy.)

(signed) *J. T. Trewman*, Brigadier,  
Commanding N. S. Force.

(True copy.)

(signed) *T. Wilkinson*, Resident.

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(No. 64.)

Ordered, That the following Reply be returned to the above from the Secretary to the Government of India (No 2,135) to the Resident at Nagpore.

Sir,

I AM directed by the Governor-general in Council to acknowledge the receipt of your despatch, dated the 22d ultimo, submitting copy of a circular issued by the Adjutant-general of the Madras army, directing the discontinuance of the attendance of British functionaries and troops on the occasion of native festivals, and requesting the instructions of the Supreme Government for your guidance.

Political Dept.

2. On this subject I am desired to observe, that the orders of the Honourable Court, prohibiting the Company's officers from participating in the religious ceremonies of the natives of India, are to be strictly obeyed, and you will therefore shape your accustomed attendance, and that of the troops at Nagpore, upon the Rajah at the anniversary of the Dussehra, in the manner prescribed by the Honourable Court, and so that, while all personal honour shall be paid to his Highness, neither you nor any part of the subsidiary force shall be present upon duty at the performance of religious ceremonies.

I have, &c.

Fort William, 2 Aug. 1841.

(signed) *T. H. Maddock*,  
Secretary to the Government of India.

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(True Copies.)

(signed) *T. L. Peacock*,  
Examiner of India Correspondence.

East India House, 8 August 1845.

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EAST INDIA.

**COPY of CORRESPONDENCE** relative to Maho-  
medan and Hindoo Worship.

*(Sir Robert Harry Inglis.)*

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*Ordered, by The House of Commons, to be Printed,  
9 August 1845.*

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*[Price 1s. 2d.]*

664.

*Under 16 oz.*

JAVA PRIZE MONEY.

RETURN to an Order of the Honourable The House of Commons, dated 17 June 1845;—for,

A RETURN “ of JAVA PRIZE MONEY invested in Promissory Notes of the *Bengal* Government, and placed in Possession of the *East India* Company, specifying the Period when so invested or paid over to the *East India* Company, the Rate of Interest allowed by the *East India* Company thereon ; stating, also, whether any and what DISTRIBUTION of the said PRIZE MONEY has been made, and what Amount is now in Hand, and where placed.”

AN ACCOUNT of the PROMISSORY NOTES issued by the *Bengal* Government to the Prize Agents for the Captors of *Java*.

PROMISSORY NOTES, as under mentioned, bearing Interest at 6 per cent. per annum, were issued to the Prize Agents, in lieu of Bills of Exchange drawn by the Lieutenant-governor of <i>Java</i> , in payment for Timber, Stores and various articles made over to the <i>Java</i> Government by the Prize Agents, and on account of Cash paid by them into the <i>Java</i> Treasuries :—		Sicca Rupees.
No. 1, dated 26 August 1811, for	- - - - -	10,09,978 10 2
2, „ ditto	- - - - -	2,74,567 - 11
3, „ 22 September 1812	- - - - -	1,09,390 14 5
4, „ 4 July 1813	- - - - -	54,940 - -
5, „ ditto	- - - - -	28,692 7 -
6, „ 16 June 1813	- - - - -	20,262 3 2
7, „ ditto	- - - - -	2,95,174 9 6
8, „ ditto	- - - - -	11,864 14 6
9, „ 15 October 1814	- - - - -	2,25,500 - -
A conditional Promissory Note, No. 10, dated the 18th February 1815, bearing interest at 6 per cent. per annum, issued in lieu of a Bill of Exchange drawn by the Government of <i>Java</i> upon the <i>Bengal</i> Government, for the Balance of Account with the Agents for the Captors. Under the conditions of this Note, which was granted for Sicca Rupees 22,59,761. 12. 11., a right was reserved to postpone the payment of the sum of Sicca Rupees 3,30,016. 3. 9., part of that amount, on account of the objections made for the <i>East India</i> Company by the Government of <i>Java</i> , and which amount of Sicca Rupees 3,30,016. 3. 9. was only to be payable to the Agents for the Captors of <i>Java</i> , on their establishing, in a competent Court, the right of the Captors to the same, after a due hearing and attention to the right of the <i>East India</i> Company and the claims of the local Government		20,30,370 11 8
There is also included in the <i>Bengal</i> General Books, under the head of “ Promissory Notes at 6 per cent. issued to the Prize Agents for the Captors of <i>Java</i> ,” a Promissory Note, No. 11, dated the 18th February 1815, issued in lieu of a Bill of Exchange drawn by the Government of <i>Java</i> in favour of the Agents for the Captors of <i>Palambang</i> and <i>Banca</i> , on account of <i>Java</i> Treasury Notes delivered to the Accountant-general at that Island		22,59,761 12 11
Interest accrued on the before-mentioned Promissory Notes		25,048 13 2
TOTAL AMOUNT of the Promissory Notes, and Interest thereon		3,49,195 7 1
		Sicca Rupees 46,64,376 12 10

PAYMENTS AND DEBITS:

Bills of Exchange drawn on the Court of Directors by the <i>Bengal</i> Government, in favour of the Prize Agents for the Captors of <i>Java</i> , in liquidation of the Principal and Interest of the Promissory Notes, Nos. 1 to 9; viz.		Sicca Rupees.	Sicca Rupees.
Bills, Nos. 1 to 9, dated the 3d February 1815, for £.285,191. 2. 9., the equivalent for Sicca Rupees 22,81,529. 2. :			
In discharge of the Principal of the Promissory Notes	- - - - -	20,30,370 11 8	
Ditto - - Interest - - - ditto	- - - - -	2,51,158 6 4	
Amount of a Bill of Exchange, drawn by the Agents for the Captors on the <i>Bengal</i> Government, in favour of J. C. Herries, Esq., his Majesty's Commissary-in-Chief, under an arrangement concluded between his Majesty's Government and the Court of Directors, the former having agreed to advance the like amount in cash to the Agents:		22,81,529 2 -	
Bill, dated the 12th June 1816, in part discharge of Promissory Note, No. 10		16,53,333 5 4	
Paid, in May 1817, to Messrs. Palmer & Co., under powers of attorney, from the Trustees and Agents for the Captors, in further part discharge of Promissory Note No. 10		80,000 - -	
Paid, also in May 1817, to Messrs. Alexander & Co., under powers of attorney, from the Trustees and Agents for the Captors; viz.			
In further part discharge of Promissory Note, No. 10	- - - - -	1,96,412 3 10	
In full for the principal of the Note No. 11	- - - - -	25,048 13 2	
Interest on the above Notes to date of payment	- - - - -	98,037 - 9	
Amount of Paper Currency found in the Public Treasuries of <i>Java</i> , and taken possession of by the Prize Agents at the time of the capture of the island; also the amount of Promissory Notes given by the Landholder of <i>Besookie</i> and <i>Panarochan</i> for the purchase of those Districts; likewise taken by the Prize Agents from the Government Treasury at <i>Sorabaya</i> , included in the amount of the Promissory Note No. 10, for Sicca Rupees 22,59,761. 12. 11. as before stated		3,19,498 1 9	
		3,30,016 3 9	
		Sicca Rupees 46,64,376 12 10	

Notes.—By a Warrant, dated the 22d August 1814, under the Sign Manual of his Royal Highness the Prince Regent, the prize property captured at *Java* was granted in trust to Sir Samuel Auchmuty, K. B., and John Wilson Croker, Esq., Secretary to the Admiralty, under whose orders the apportionments or distributions were made by the Prize Agents; the *East India* Company, therefore, have not the means of supplying an accurate Return to the latter part of the Order of The Honourable House, for a statement, showing “ whether any and what Distribution of the said Prize Money has been made, and what Amount is now in hand, and where placed.”

The Agents on behalf of the Army were Lieutenant-colonel Sir John Maxwell Tylden, Knight, and Lieutenant-colonel William Dickson; and on behalf of the Naval Forces, Messrs. John Brenton and Thomas Wallis.

East India House, }  
30 June 1845. }

JAMES C. MELVILL,  
Secretary.

JAVA PRIZE MONEY.

A RETURN of JAVA PRIZE MONEY invested  
in Promissory Notes of the *Bengal Govern-*  
ment, and placed in Possession of the *East*  
*India Company.*

(*Mr. Hume.*)

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*Ordered, by The House of Commons, to be Printed,*  
*4 July 1845.*

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## RAJA OF SATTARA.

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RETURN to an Order of the Honourable The House of Commons,  
dated 10 June 1845;—for,

COPIES “of all CORRESPONDENCE between *J. Warden*, Esq. AGENT for SIRDARS in the *Deccan*, and Lieutenant-Colonel *C. Orans*, late RESIDENT at *Sattara*, and the Government of Bombay, relating to certain Charges preferred against *Ballajee Narrain Nathoo*, of *Sattara*, by *Krushnaje Sadasew Bhidey*, formerly of *Sattara* and now of *Bombay* :”

“Of all PETITIONS and CORRESPONDENCE addressed to the Government of *Bombay* by *Krushnaje Sadasew Bhidey*, with the Minutes of the Government thereupon, and the Answers returned to the same :”

“Of all CORRESPONDENCE between the *Bombay* Government and the Court of Directors of the East India Company, on the subject to which the above Papers relate :”

“Of a LETTER from His Highness the deposed RAJAH of *Sattara*, to the Right honourable Sir *Henry Hardinge*, Governor-General of India, dated Benares, 12th December 1844, together with all Minutes and Correspondence connected therewith.”

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*Notes.*—This is not a perfect Return to the Order ; that part of it which calls for a “Letter from His Highness the deposed Raja of Sattara to the Right honourable Sir Henry Hardinge, Governor-General of India, dated Benares, 12th December 1844, together with all Minutes and Correspondence connected therewith,” cannot be complied with, the documents referred to in it not having been received in this country.

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East India House, }  
27 June 1845. }

JAMES C. MELVILL.

(*Mr. Hume.*)

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Ordered, by The House of Commons, to be Printed,  
4 July 1845.

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## RAJA OF SATTARA.

LETTER from the Bombay Government to the Court of Directors.

(No. 94 of 1844, Political Department.)

To the Honourable the Court of Directors for Affairs of the Honourable East India Company, London, dated Bombay, 30 November 1844.

Honourable Sirs,

Sattara.

1. We have the honour to forward to your honourable Court copy of a letter from Mr. Warden, Agent for Sirdars in the Deccan, dated the 10th August last, No. 149, submitting translation of a petition, together with certain other documents from an individual named Krustnajee Suddassee Bheday, preferring the following charges against Lieutenant-colonel Ovans, Resident at Sattara.

Charges of bribery and corruption against Lieut.-col. Ovans and Ballajee Punt Nathoo.

First.—That Lieutenant-colonel Ovans has obtained from his Highness the Raja of Sattara payment of the sum of 1,500 rupees per mensem, to his (Lieutenant-colonel Ovans') father-in-law, and that this allowance was on his death transferred to the Resident's brother-in-law, who receives it up to this day.

Secondly.—That when the Resident's lady and children proceeded to England, gold bullion and Venetian necklaces, to the value of 50,000 rupees, were purchased by the Raja and given to the Resident.

2. The petitioner Krustnajee Suddassee, in the same petition also prefers certain charges of bribery and corruption against Ballajee Punt Nathoo, a Sirdar of the second class in the Deccan, who rendered to Government important assistance during the inquiry which was conducted at Sattara in regard to the proceedings of the ex-Raja of Sattara.

3. In forwarding these documents, we beg to submit for the information of your honourable Court, the following particulars on the records of this Government in regard to Krustnajee Suddassee.

4. Under date the 22d December 1842, Krustnajee Suddassee presented a petition to Government, representing that in consideration of certain information afforded by him respecting a petition which had been submitted to Government on the 13th December 1836 by Geerjabee on behalf of her son Govind Row Wittul, then in confinement at Poonah, for having been concerned in the intrigues of the ex-Raja of Sattara; Lieutenant-colonel Ovans and Ballajee Punt Nathoo had promised him a pension (no amount being specified by the petitioner), and had made themselves responsible for the payment to him of a sum of 1,250 rupees, being "the amount of the reward for which Geerjabee had passed a writing to him."

5. This individual further represented, that of this sum, he had only received 150 rupees, besides subsistence money, at the same rate as was allowed to other witnesses. He, at the same time, insinuated that Ballajee Punt Nathoo had appropriated the money promised to him by Geerjabee to his own use; but it is worthy of remark, that he did not at this time make any charge against Ballajee Punt of having suborned him to give false evidence in the case of the ex-Raja of Sattara, but, on the contrary, he commenced his petition by stating, that "as Govind Rao Dewan was put into custody on account of the political proceedings of the ex-Raja of Sattara, his mother, Geerjabee, widow of Wittul Ballal Maharajee, sent Luxman Punt Bhagwut to me, and caused a representation of her circumstances to be laid through me before Government, in consequence of which Abba Jossee took me to Ballajee Punt Dada Nathoo."

6. Having on the 7th of January 1843 referred this petition to the Resident at Sattara, that officer, on the 7th of the following month, reported, that as regarded the sum of 1,250 rupees, "he knew nothing, and that it was clear the British Government had nothing to do with it;" for if any claim existed, by the petitioner's own showing, it was against Geerjabee, and should be brought forward in the courts of law at Sattara, or by petition to the Raja. In respect to the petition, the Resident observed, the claim was "perfectly groundless;" for the witness had come voluntarily forward, and was brought like many other witnesses, and his deposition taken and forwarded to Government; his travelling expenses were paid, and he was allowed subsistence money like all the other witnesses who were examined and detained at Sattara, but beyond this he possessed no claim whatever either on the British or the Sattara Government. No promise of any reward in any shape whatever was ever made to him; on the contrary, he was distinctly told from the first, that no interference would be exercised by the Resident in regard to his claim on Geerjabee.

7. With the same report, Lieutenant-colonel Ovans submitted a statement from Ballajee Punt Nathoo, denying the truth of the petitioner's allegations against him, and that officer stated that he himself "could confirm the correctness" of the same.

8. Having taken the above petition and the Resident's report thereon into consideration, we, under date the 6th April 1843, resolved that the case was not one with which the

British Government should interfere; and on the same date an intimation to this effect was made to Lieutenant-colonel Ovens and the petitioner.

9. We here beg to quote the following passage from a report from Lieutenant-colonel Ovens, dated the 16th of August 1838, a perusal of which will explain the nature of the testimony borne by Krustnaje Suddasew, in regard to the petition presented to Government by Geerjabae, the mother of Govind Row Dewan.

"The anxiety evinced to falsify Geerjabae's original urzee (petition) is a clear proof of the importance of that document, and although its authenticity was formerly placed beyond doubt, yet as one point remained to be cleared up, viz. as to the person said to be the writer of it, I have now the honour to submit translations of certain papers, as noted in the accompanying list, which will, I think, be found conclusive on this point also. To enable Government fully to judge of the weight of this evidence, I beg to mention that Crustnaje Suddasew Bheery, the person who is now proved to be the writer of Geerjabae's petition, came to Sattara as far back as September last, to claim the promised reward, and he was then brought to me, and made the statement No. 4, and produced the papers described as Nos. 1, 2, 3, 4, 5, 6 & 7, in the answer to the question which will be found at the end of his statement."

10. Before the intimation mentioned in the 8th paragraph of this letter was made to Crustnaje Suddasew, that individual, under date the 14th January 1843, presented another petition to Government, reiterating his claim to a pension, and to the payment of the balance of the sum of 1,250 rupees which he alleges was promised to him by Geerjabae. This petition was forwarded, on the 28th March following, for the remarks of Lieutenant-colonel Hickes, then in temporary charge of the Sattara residency; and on the 22d of the following month, Lieutenant-colonel Ovens, who had intermediately resumed charge of his office, stated that this second petition contained no new matter requiring reply; and at the same time reported that Geerjabae had died at the village of Mahowlee, near Sattara, on the 3d April 1843.

11. The petitioner was, therefore, under date the 3d June 1843, informed that the decision on his case alluded to in the 8th paragraph of this despatch was final. The petitioner having thus, as it were, been nonsuited, presented, on the 29th of the same month, a further petition to our honourable President, when, on a tour in the Deccan, charging Ballajee Punt Nathoo with having received bribes from the jagheerdars and ryots, during the inquiry into the conduct of the ex-Raja of Sattara. This petition was also forwarded to Lieutenant-colonel Ovens; and that officer, in reply, after referring to Krustnaje's previous petitions, and to their having been proved false, stated to the following effect:

"Actuated, however, by malicious feelings, this individual now brings forward a string of accusations in his own name, unsupported by one particle of evidence against Ballajee Punt Nathoo, with a request that Government will cause an inquiry to be instituted. As regards this, I can bear witness, from my own personal knowledge of these transactions, that these accusations are entirely false and groundless, and that they are evidently made only with a view of injuring the character of one of the most respectable natives of rank in this country. On looking also at these accusations made by so worthless a character as this petitioner, it will be naturally asked, who has authorized him to stand forward as a public spy and accuser. Have the jagheerdars, who are stated to be the sufferers, authorized him to use their names; if they or any other person mentioned in this petition are aggrieved, why do not they themselves stand forward? No person, high or low, is denied access either to his highness the Rajah or to myself. I see every petition, and hear every complaint every morning myself, and Ballajee Punt Nathoo does not now himself reside in Sattara, nor is he employed or consulted by the Rajah on public affairs, so that his presence or influence cannot be adduced as a reason for any party who may be sufferers not coming forward to complain; but so far from there being any complaints against this upright and honest man, I am most thankful to avail myself of this opportunity of putting on record, that the jagheerdars are one and all most grateful to Ballajee Punt Nathoo, for his conduct towards them, and have often assured me that in all their troubles both during the Paishwa's government and our own, he has befriended and preserved them, and as Mr. Elphinstone relied with the most entire confidence on Ballajee Punt Nathoo's local experience in the settlement of this country in 1818-19, many of them well know it is to him they owe their present position and wealth." In conclusion Colonel Ovens stated that there was "some reason to believe that this petition is the result of some low intrigue" at Sattara, and suggested that he should be allowed to communicate the matter to the Raja, that his Highness might adopt such measures against the petitioner as might seem just and expedient.

12. On the receipt of this report, Krustnaje Suddasew was referred to the answer returned to his former petition, with an intimation that the decision therein communicated to him was final, and that no further petitions on the subject would be received from him.

13. On the 13th of the same month, Krustnaje presented another petition, which, as it contained no new matter, was in conformity with the above resolution merely filed.

14. Under date the 29th September 1843, Krustnaje Suddasew presented to Government another petition, reiterating his former charges, and preferring additional accusations against Ballajee Punt. This petition was, on the 15th of the following month, forwarded to Lieutenant-colonel Ovens, who, in reply, after referring to the former petitions from Krustnaje Suddasew, to his reports, and to the decision of Government thereon, stated, that he would "merely add, that there is nothing new brought forward in the petition now returned; but that these accusations are all equally false and malicious as those formerly brought forward

by

by the petitioner, and consequently that this infamous libeller is unworthy of further notice or reply."

15. On the receipt of this report, it was resolved, by Government, that no reply should be returned to the petitioner, and that any further representations from the petitioner should be returned to him by endorsement. In conformity with this resolution, two further petitions from Krustnaje Suddasew were returned to that person, under date the 9th December 1843.

16. On referring to statement No. 1, accompanying Mr. Warden's letter, forwarded with the petitions previously received by Government from Krustnaje Suddasew, your honourable Court will perceive that the charges now preferred by that individual against Ballajee Punt Nathoo, are identical with those which have been already declared to be false and libellous by the Resident at Sattara; and that the accuser, in support of his charges, relies chiefly on the testimony of persons residing in the Sattara territory, and consequently residing in a territory beyond the jurisdiction of the British Government.

17. It will also be seen that the acts with which Ballajee Punt Nathoo is charged, were committed in a foreign jurisdiction, and at a time when that individual was not in the service of the British Government; these are all facts which required to be considered before we determined how the case should be dealt with; for if the British Government does not possess jurisdiction, and the power of enforcing the attendance of witnesses, and punishing them for perjury, it would be vain to commence an inquiry into the petitioner's allegations, even if we had strong *prima facie* grounds for believing in the truth of his statements, which, referring to the nature of the complaint in the first instance preferred by him, we do not think to be the case, for it will not escape the notice of your honourable Court that Krustnaje Suddasew's first complaint was against the mother of Govind Row Dewan, and it was not until after this had been rejected that he preferred his present accusations.

18. But what in our opinion greatly adds to Krustnaje's discredit, is the circumstance of his now for the first time, on no substantial grounds, preferring charges of personal bribery and corruption against Lieutenant-colonel Ovens, our present able Resident at Sattara.

19. We do not believe the honourable Company's service possesses a more upright and honourable servant than Lieutenant-colonel Ovens, and for our opinion in regard to the high character for honour and integrity which this officer has always borne, we beg leave to solicit the attention of your honourable Court to the minutes recorded by us under dates noted in the margin,\* forming enclosures Nos. 19 to 23 to this letter.

20. The fact of these charges against Lieutenant-colonel Ovens being now at the eleventh hour added to the accusations previously made by Krustnaje Suddasew against Ballajee Punt Nathoo, confirms our distrust in the petitioner's statements, and strengthens our belief that the petitioner is merely a tool in the hands of the party who has been displaced from power by the deposal of the ex-Raja of Sattara.

21. In considering how the present petition should be disposed of, we had to determine whether we should adhere to our former resolution, and summarily dismiss the charges now brought forward, or whether we should either again refer them for the report of the Resident at Sattara, or adopt any other mode of investigating them.

22. We are of opinion on the one hand that Government must ever be most ready to investigate charges of bribery and dishonesty, whenever there are reasonable grounds for believing in their existence, but on the other we conceive it is obviously expedient to avoid calling into question the character of its functionaries upon the representation of every worthless, irresponsible and disappointed complainant, or to be betrayed into inquiries into the conduct of a person situated as Ballajee Punt Nathoo is, which for the reasons we have alluded to in the 16th and 17th paragraphs of this letter, is likely to prove fruitless and abortive, even on the supposition of guilt.

23. Having taken all the circumstances above stated into our mature and serious consideration, we have unanimously come to the resolution, that the charges now preferred by Krustnaje Suddasew Bheday against Lieutenant-colonel Ovens and Ballajee Punt Nathoo, are undeserving of notice, and we hope that your honourable Court will approve of this decision, the grounds of which will be found more fully detailed in the minutes we have recorded, and alluded to in the 19th paragraph of this despatch.

We have, &c.

Bombay Castle,  
30 November 1844.

(signed) Geo. Arthur.  
Thos. M' Mahon.  
J. H. Crawford.  
L. R. Reid.

\* Minute by the Honourable the Governor, dated 21st November 1844.

Minute by His Excellency the Commander-in-Chief, without date.

Minute by the Honourable Mr. Crawford, dated 22d November.

Minute by the Honourable Mr. Reid, without date.

Further minute by the Honourable the Governor, without date.



## LETTER from the Bombay Government to the Court of Directors.\*

(No. 38 of 1845, Political Department.)

To the Honourable the Court of Directors, for Affairs of the Honourable East India Company, London, dated Bombay, 31 March 1845.

Honourable Sirs,

1. We beg to acknowledge the receipt of your honourable Court's despatch, dated the 4th September, No. 23, of 1844, transmitting for such remarks as this Government may have to offer, copies of two letters, dated the 18th May and 25th June 1844, addressed to your honourable Chairman by Joseph Hume, Esq, M. P., enclosing papers forwarded to him from a native of India, named Crustnajee Suddasew Bhidday, connected with the case of the ex-Raja of Sattara.

2. The principal allegations contained in these documents appeared to be as follow :—

1st. That Ballajee Punt Nathoo made the deposal of the ex-Raja of Sattara subservient "to the aggrandizement of himself and his creatures."

2d. That the ex-Raja was deposed by a system of subornation and perjury.

3d. That Geerjabhye, mother of Govind Row, formerly Dewan of the ex-Raja, has declared that she never addressed any petition to Government, on the subject of the imprisonment of her son, and that any letter presented in her name must have been a forgery.

4th. That Geerjabhye has declared on oath that she never, as has been alleged, waited on Lieutenant-colonel Ovans at midnight, and that if the interviews to which that officer has deposed actually occurred, she must have been personated by some other individual.

5th. That Govind Row Dewan has declared that the representation formerly made to Government in his mother's name, was concocted by an agent of Ballajee Punt Nathoo, who it is alleged has in consequence been provided with a pension from the Sattara Government.

6th. That Crustnajee Suddasew Bhidday has avowed himself to have been the writer of the representation purporting to proceed from Geerjabhye, and declares that he was induced to forge this document unknown to Geerjabhye, under a promise from Ballajee Punt Nathoo, by whom it was concocted, of a present of 1,250 rupees.

7th. That Govind Row Dewan has declared that the deposition which he made while in confinement as a state prisoner in the gaol at Ahmednuggur in the year 1837, was extorted from him in a dark dungeon, under instructions from Mr. Hutt, then Acting Judge and Session Judge of that station, and that he made the admissions therein contained, the truth of which he now disclaims, in order to save his life.

8th. That Vishnoo Kesson Dewas, whose evidence against the ex-Raja was commented upon by the late Right honourable Sir Robert Grant in the 81st paragraph of his minute on the Sattara affairs, dated the 5th May 1838, never appeared as a witness against the ex-Raja, nor had any communication with the Resident on the subject of the charges against that personage.

9th. That the two seals and two signets found by Mr. Dunlop and Lieutenant-colonel Ovans, and alleged to belong to the ex-Raja, were not his property, but that one set belonged to one of the former Paishwas, and that the other set, if genuine, were the seal and signet of Sewajee, the first sovereign of the Mahrattas, who reigned about the year 1670.

10th. That the statement in the proceedings connected with the inquiry into the charges against the ex-Raja, that one of the former Paishwas was named Suddasew Bajee Row, is incorrect, since no such person ever held that dignity.

3. We now proceed to reply to these allegations in the order above noticed.

4. With reference to the first and second of these allegations, we beg to observe, that the assertion, that Ballajee Punt Nathoo made the deposal of the ex-Raja subservient to the aggrandizement of himself and his creatures, and that that measure was effected by a system of subornation and perjury could only be proved or disproved by re-opening, ab initio, the whole case of the ex-Raja of Sattara, than which we would respectfully submit, nothing could be more inexpedient, even if these assertions were not solely dependent on the veracity of a person, who, by his own confession, has proved himself to be utterly unworthy of credit.†

5. In

\* Explanation submitted on allegations contained in papers received by Mr. Hume from India, connected with the case of the ex-Raja of Sattara.

† Vide his statement, dated December 1843, forming Enclosure No. 1 to Mr. Hume's letter.

5. In regard to the third point,\* Lieutenant-colonel Ovans, the late Resident at Sattara, in reply to a call which we made upon him, for an explanation upon this allegation, has in a report, dated the 7th ultimo, stated as follows:—"All I can say is, that this lady (Geerjabhye) came in her own person, as reported by me in my letters to Government, and stated in my presence what is contained in those letters; she was also accompanied by the persons mentioned in those letters, and their evidence, if taken, will, no doubt, corroborate this fact; that it was no deception I can safely vouch for, as she afterwards came and visited my family at the Residency in the daytime, as other native ladies were in the habit of doing, when I again saw her, and thus I can speak positively as to her identity."

6. With reference to the fourth allegation,† Lieutenant-colonel Ovans, in the same report, observes, "the Paper, No. 12, of those enclosures merely contains a repetition of the disavowal of the petition by Geerjabhye, as set forth in No. 11, and therefore I need only refer to what is above stated on this subject. This paper, however, I see admits that she (Geerjabhye) came to the Residency in the daytime, as mentioned by me above, and therefore, as I before said, I can have no doubt of her identity, or of its having been the same person who had visited me before, as reported by me to Government; moreover, when the age of this person is recollected, and my character and position at Sattara are taken into account, there was nothing whatever to prevent her doing so, except the fear of the ex-Raja, and this it was, which obliged her at first to come in the evening, instead of openly in the daytime, as she otherwise would have done."

7. On the fifth point ‡ Lieutenant-colonel Ovans states, "with regard to the declaration of Govind Row, forming the second paper of No. 11, I can have no hesitation, from my knowledge of these transactions, in pronouncing these allegations to be entirely false. The karcoon, employed by Geerjabhye to write her petition, was fully and satisfactorily proved to be a karcoon, called Crustnaje Punt Bhidday, and the whole of the proof of this fact was duly submitted by me to Government; so far from this man receiving a pension, or being in any way under the influence of Ballajee Punt Nathoo, it is well known to Government that because I would not interfere to obtain for him the reward promised to him by Geerjabhye for writing her petition, this very man is now incessantly preferring false and groundless charges to Government, both against myself§ and Ballajee Punt, so that this statement is false on its own showing."

8. From the above explanation it will be observed, that Crustnaje Suddasew Bhidday was, as he asserts, the writer of the representation which proceeded from Geerjabhye,|| but that his assertion that he wrote this document unknown to this lady, and afterwards forged her signature thereto, is utterly untrue. We consider it necessary to comment upon this allegation, since this person, by his own statement, has proved himself to be totally undeserving of credit. In closing our remarks upon this point, however, we would observe that it is highly improbable that Crustnaje would have so long concealed his present story if it had been the true one.

9. With reference to the allegation quoted in the margin,¶ we have the honour to submit a report from Mr. Hutt, dated the 24th ultimo, from which your honourable Court will perceive, that so far from Govind Row Dewan having been confined in a dark dungeon at Ahmednuggur, he was uniformly treated with marked consideration, and that a house was expressly assigned for his accommodation. Mr. Hutt's statement is confirmed by the depositions, on solemn affirmation, of the Nazir of the Adawlut at Ahmednuggur, of the deputy-gaoler of the gaol at that station, and of the havildar, and two sepoys, who were in constant attendance on Govind Row while he was in confinement. Mr. Hutt's explanation will, we trust, satisfy your honourable Court of the utter falsity of Govind Row's present declaration, as proving that, while a state prisoner at Ahmednuggur, he was never confined in a dark dungeon, and that the deposition which he made before Mr. Hutt, instead of having been extorted from him, as he now asserts, was volunteered by him, in order, as he informed Mr. Hutt, "to disburden his mind," when he could no longer serve the interests

\* That Geerjabhye, mother of Govind Row, formerly Dewan of the ex-Raja, on two occasions has declared that she never addressed any petition to Government on the subject of the imprisonment of her son, and that any letter presented in her name must have been a forgery.

† That Geerjabhye has declared on oath that she never, as has been alleged, waited on Lieutenant-colonel Ovans at midnight, and that, if the interviews to which that officer has deposed actually occurred, she must have been personated by some other individual.

‡ That Govind Row Dewan has declared that the representation formerly made to Government, in his mother's name, was concocted by an agent of Ballajee Punt Nathoo, who, it is alleged, has, in consequence, been provided with a pension from the Sattara Government.

§ *Vide* our Despatch to your honourable Court, dated 30th November, No. 94 of 1844.

|| That Crustnaje Suddasew Bhidday has avowed himself to have been the writer of the representation purporting to proceed from Geerjabhye, and declares that he was induced to forge this document unknown to Geerjabhye, under a promise from Ballajee Punt Nathoo, by whom it was concocted, of a present of 1,250 rupees.

¶ That Govind Row Dewan has declared, that the deposition which he made while in confinement as a state prisoner in the gaol at Ahmednuggur in the year 1837, was extorted from him in a dark dungeon, under instruction from Mr. Hutt, then acting judge and session judge at that station, and that he made the admissions therein contained, the truth of which he now disclaims, in order to save his life,

interests of his sovereign by concealing facts; he, at the same time, declared to Mr. Hutt, that the kind and considerate treatment he had received from the British Government during the period he had been a state prisoner, had insured him with such confidence that he had resolved to make a full disclosure of all facts with which he was acquainted, connected with the charges against the ex-Raja.

10. With reference to the allegation quoted in the margin,\* Lieutenant-colonel Ovans, in his report of the 7th ultimo, observes as follows: "as regards No. 17 of these accompaniments, which is stated to be the translation of a letter from Vishnoo Kessou Dewristuley, denying that he ever appeared as a witness against the ex-Raja, not having the evidence of this person to refer to, I cannot now recollect either the person or the statement of this witness, all I can say, therefore, is, that the deposition of every witness was duly taken by me, and attested by me, and that it is not likely that any mistake as to the identity of this witness could have occurred." With reference to these remarks, we beg to state, that the deposition alluded to, was made before Lieutenant-colonel Ovans, on the 17th February 1838, and that a translation of this document was forwarded to Government on the 20th of the same month. Copy of this deposition formed enclosure No. 7 to collection No. 8, accompanying the despatch from this Government to the honourable the Secret Committee, dated the 19th May, No. 3 of 1838.

11. In regard to the 9th and 10th allegations,† Lieutenant colonel Ovans has made the following observations: "the papers marked Nos. 13, 14, 15 and 16 of these accompaniments, refer to the inscription on the seals used by Nagoo Dewrao; but although these inscriptions may not have corresponded with the inscriptions on the seals in daily use by the ex-Raja of Sattara, still this does not appear to me to throw any doubts on the Goa case, or to disprove the mission of Nagoo Dewrao, as it is not likely, that on such a mission, the real seal of Government or fac-similes of them would have been entrusted to him. It is rather to be supposed that concealment would be resorted to, and seals of a former reign used, which would answer the purpose as well, and thus less danger would be incurred.

12. It has now, we trust, been proved, to the entire satisfaction of your honourable Court, that the principal allegations contained in the documents forwarded to Mr. Hume are false and unfounded. Before, however, concluding our remarks upon this subject, we cannot forbear observing, that as regards that portion of the allegations which arise out of the statements of Crustnaje Suddasew Bhidday, it appears remarkable that Mr. Hume should have attached importance to the assertions of a person who has so shamelessly declared that he was induced by Ballajee Punt Nathoo, under the promise of a present of 1,250 rupees and a pension, to forge the name of Geerjabhye to a letter which he alleges he wrote in that lady's name without her knowledge.

13. Mr. Hume, in his letter dated the 18th May last, has called the attention of your honourable Court to the fact, that although representations have been made to this Government by Crustnaje Suddasew Bhidday, an inquiry into the statements they contain has been refused. With reference to this remark, we beg to refer to our despatch, dated the 30th November, No. 94 of 1844, with which we transmitted to your honourable Court copies of all petitions which we have received from this person, together with our replies thereto. In this despatch, we informed your honourable Court that being impressed with a firm belief that the charges contained in these petitions were altogether groundless, we had considered them undeserving of notice.

14. Finally, we beg to draw the attention of your honourable Court to two minutes recorded by our honourable President, dated the 28th January last, and the 25th instant, as containing more fully than we have noticed in this despatch, the sentiments of this Government upon each of the allegations contained in the papers received from Mr. Hume. The original enclosures to your honourable Court's letter, dated the 4th September, No. 23 of 1844, are returned with this despatch, copies having been retained for the records of this Government.

Unanimously concurred in by the Board.

Vide packet, marked (A.)

We have, &c.

(signed) G. Arthur.  
Thos. M' Mahen.  
L. R. Reid.

Bombay Castle, 31 March 1845.

\* That Vishnoo Kessow Dewas, whose evidence against the ex-Raja was commented upon by the late Right honourable Sir Robert Grant in the 81st para. of his minute on the Sattara affairs, dated the 5th May 1838, never appeared as a witness against the ex-Raja, nor had any communication with the Resident on the subject of the charges against that personage.

† That the two seals and two signets found by Mr. Dunlop and Lieutenant-colonel Ovans, and alleged to belong to the ex-Raja, were not his property, but that one set belonged to one of the former Peishwas, and that the other set, if genuine, were the seal and signet of Sewagee the first sovereign of the Mahrattas, who reigned about the year 1670.

That the statement in the proceedings connected with the inquiry into the charges against the ex-Raja, that one of the former Peahwas was named Suddasew Bajee Row is incorrect, since no such person ever held that dignity.

## — No. 1. —

(No. 23 of 1844. Political Department.)

Our Governor in Council at Bombay.

WE transmit to you copies of two letters addressed to our Chairman by Joseph Hume, Esq., M.P., and enclosing various papers stated to have been received from India in connexion with the case of the ex-Raja of Sattara, which papers we herewith forward to you in original, in order that we may receive from you such remarks as these communications may appear to you to require.

We are, &amp;c.

(signed)	<i>John Shepherd.</i>	<i>J. C. Whiteman.</i>
	<i>H. Willock.</i>	<i>R. Jenkins.</i>
	<i>J. Musterman.</i>	<i>J. Cotton.</i>
	<i>W. W. Hogg.</i>	<i>H. Young.</i>
	<i>R. Ellice.</i>	<i>F. Warden.</i>
	<i>W. H. Sykes.</i>	<i>H. Alexander.</i>
	<i>J. Oliphant.</i>	

London, 4 September 1844.

To John Shepherd, Esq., Chairman of the Court of Directors.

Honourable Sir,

6, Bryanston-square, 18 May 1844.

I now beg leave to submit to you the following documents as establishing the new facts in the case of the deposed Raja of Sattara adverted to in my note of the 11th instant.

No. 1, is a Letter (or Petition) dated Bombay, December 1843, addressed by Crustnaje Sadasew Bhidday, a Brahmin inhabitant of Punderpoor, to the Court of Directors, forwarding to the Court,

No. 1.

No. 2, an Attestation made in Bombay on the 13th December 1843, before a notary public, by Crustnaje, to the effect that the copies he then produced were true and authentic copies of two petitions presented by him to the Governor in Council of Bombay.

No. 2.

No. 3. A Declaration on oath made by Crustnaje, through a sworn interpreter, to the effect that the contents of the two Petitions were true, and that he was ready to substantiate them before impartial judges.

No. 3.

Nos. 4 & 5. Notarial copies of these two Petitions.

Nos. 4 &amp; 5.

No. 6. Copy of a Petition on the same subject, dated Bombay, 12th October 1843, presented by him to the Governor in Council.

No. 6.

Nos. 7. 8. 9. Answers of the Governor in Council to the three petitions, refusing inquiry therein.

Nos. 7, 8, 9.

No. 10. A Declaration in the original Mahratta, with translation annexed, made by Ram Row Balwunt, an officer in the service of the Akulkote jhageerdar.

No. 10.

It is superfluous, Sir, to remind you that Crustnaje Sadasew Bhidday (otherwise Bhirey), was the person produced by Lieutenant-colonel Ovans, Resident at Sattara, as the writer of the yad or petition, dated 13th December 1836, sent secretly to the Governor of Bombay on the 6th March 1837, and ascribed to Gurjha Bhaee, the mother of Govind Row, then a close prisoner at Sattara, that the evidence of Crustnaje was taken at great length by Colonel Ovans on the 7th September 1837, and recorded as that of a respectable man, and trustworthy and veracious witness.

Crustnaje now states, both in his letter to the honourable Court, and on oath in his several petitions to the Governor in Council, that he was inveigled by Ballajee Punt Nattoo into the affair of Gurjha Bhaee, upon a promise of receiving 1,250 rupees in money, and a pension, but that he has only received 150 rupees: he charges Ballajee Punt Nattoo with twelve distinct and specific instances of gross bribery, while minister at Sattara, giving the names, the occasions, and the particulars: he pledges himself to prove the several instances by oral and documentary evidence, and, as an earnest of his ability, he forwards the original declaration No. 10, cited above, in which the writer, Ram Row Bulwunt, states that he paid Ballajee Punt Nattoo 15,000 rupees through two shroffs whom he names at Solapoor and Poonah, as a bribe extorted from his master.

In corroboration of Crustnaje's confession that he was the writer, and Ballajee Punt the concocter of the petition fixed upon as Gurjabhaee's, I lay before you two declarations marked Nos. 11 & 12, made by this lady: the first dated Sattara, 11th June 1838, in the handwriting of one of her sons; the second, dated Mahali, 19th February 1839. In the first, she offers to make oath with her two sons by the water of the Ganges; in the second she does make oath on the Toolsee leaf, that she knew not directly or indirectly of the existence or presentation of such a petition as was ascribed to her. She further makes oath that she never waited on Colonel Ovans but once, and that (with her attendants) at mid-day, while Colonel Ovans reported that she came to his residence twice, and that at midnight: my conviction is that this lady will prove to have been personated on both these occasions. It is utterly incredible that a Brahmin widow of high rank would, on any pretence, or under any circumstances whatever, enter the house of an English officer at night.

Nos. 11 &amp; 12.

In deciding on the guilt of the deposed Raja, great weight has been given to the discovery of the two seals, and the two signets. One set was found by Mr. Dunlop, not in

Nos. 13 &amp; 14.

the possession of the Raja, but at Sunkeshwur, in the possession of the Swamee, or Brahmin Patriarch, with whom the Raja was at variance; the other was found by Colonel Ovens in the Goa territories, and in the possession of Balkoon Kelkur, the gang-robber who had fled from justice. Impressions of both sets have been made in the Sattara papers, ordered by the House of Commons to be printed, and careful and correct translations (Nos. 13 & 14) have been obtained of the inscriptions upon them. The translations prove indubitably, that the first set are not the seal or signet of the deposed Raja, nor of any Raja of Sattara at all, but the seal and signet of one of the Peishwas named Bajee Row, the son of Sadasew; and that the second set are, if genuine, the seal and signet of Sewajee the first sovereign of the Mahrattas, who reigned about 170 years ago. But more, on referring to the archives at Poonah, it has been discovered, according to document No. 15, dated from thence 17th March 1844, and giving a detailed list of all the Peishwas, that no such person as Sadasew Bajee Row ever held the dignity.

No. 15.

No. 17.

The next paper, No 17, is the declaration of Vishnoo Kessao Dewas Juley, dated 16th November 1843. This person is set down as No. 40 in the list of witnesses against the Raja, and his evidence commented upon in Sir R. Grant's minute of 5th May 1838, para. 81. This person declares he never appeared as a witness, never gave evidence before, or had any communication with the Resident.

No. 18.

The last document, No. 18, is the declaration of Govind Row, dated Sattara, 8th January 1842, and states that what was called his confession was extorted from him to save his life, and is, the whole of it, false.

I will not waste your time by offering a comment upon the disclosures revealed in these documents. I bring them before you, because the person most interested in making them known, the deposed Raja, is virtually prohibited from producing them. Whatever representation he makes to the Government of India, praying for justice or inquiry, is indeed received, but no notice is taken, nor answer returned to it. You, Sir, I am persuaded will read carefully and dispassionately what I have laid before you; and I am also persuaded, you will rise from the perusal impressed with the conviction, that a *prima facie* case for inquiry has been clearly established. Suffer me, then, with all respect and deference to offer a suggestion, easy, practicable, devoid of further delay, trouble or expense. The House of Commons has printed the Sattara evidence, and made it readable by, and accessible to all. Let the evidence in this shape be put into the hands of two competent judicious persons, civil or military, taken from Benares, where the ex-Raja now is, or its neighbourhood; let them be instructed to ascertain the truth of the new and most important facts submitted to your consideration now, and let them report to the proper authorities thereon. If it shall be satisfactorily proved, and the living witnesses can be referred to, and submitted to such examination as shall remove all doubts of the truth of their testimony, I hope in the cause of justice I will not appeal in vain.

If then documents, and other facts to be brought to support them, shall establish a system of subornation and perjury, by which the late Raja of Sattara has been removed from his station, I hope the Court of Directors will be disposed to do justice to the deposed Raja, and to all parties who have been injured by falsehood and perjury.

I have, &amp;c.

(signed) *Joseph Hume.*

Sir,

9, Blandford-place, Regent's Park, 25 June 1844.

In reference to my letter of the 18th May, I take the liberty of enclosing an extract of a letter received by the last mail from the ex-Raja of Sattara, dated Benares, the 19th.

You will perceive that the document sent refers to the most important part of the *ex parte* evidence in support of the "Goa charge," as now for the first time fully disclosed to his Highness, in the papers printed by order of Parliament.

His Highness declares, that the seals attached to certain documents redeemed by the Government of Bombay, and asserted to be his genuine seals, are forgeries.

In the first place, he states, that their inscriptions, as will be seen from the copies he has sent, do not correspond with the inscriptions on the genuine seals. In the second place, that the seal said to contain "the name of the present Raja of Sattara," does not contain any part of the name of the Raja, but purports to be the seal of some one filling the situation of Peishwa.

In the third place, the Raja proves by authentic public records, that no such person as "Sadasew Bajee Row" ever filled the office of Peishwa, and that such a person in such an office was wholly imaginary.

You will at once perceive that these disclosures are of vital importance to the question of the guilt or innocence of his Highness, and make irresistible his claim to be heard in his defence. It can never be the wish of the Court of Directors to persist in affirming that guilt in the presence of clear and undoubted proofs of the Raja's innocence.

In confirmation of the interdict which is placed upon all representations coming from India from the Raja, I deem it my duty to send you his own declaration of the fact, which also arrived by the last mail, and which but too truly explains and justifies the appeals for justice which he makes to the supreme authorities in England.

I have, &amp;c.

(signed) *Joseph Hume.*

To John Shepherd, Esq.,  
Chairman of the Court of Directors.

COPIES OF ENCLOSURES alluded to in Mr. *Hume's* Letter, dated the 18th of May, referred to in Political Despatch to Bombay, dated 4th September, No. 23, 1844.

(No. 1.)

To the Honourable the Court of Directors, &c. &c. &c.

Sirs,

I most earnestly beg the indulgence of your honourable Court most humbly to intimate that when Govind Rao, the dewan (minister) of the late Raja of Sattara, was imprisoned, I was being connected with the affair of his mother, Gerjabaye, inveigled by Balajee Punt Nati to his own side, and was promised by him a reward of 1,250 rupees, and a pension in addition. Having held out a confidential promise to me, and paid 50 rupees in part of the above sum, with an assurance to pay the rest next, Balajee Punt Nati employed me as one of his own party, with a fixed emolument. But after he succeeded in removing Pre-tapseng from the gadi, he declined fulfilling his promise, having paid me in the whole 100 rupees, and refusing to grant the remaining 1,100 rupees and the promised pension. Balajee Punt thus practised with me a shameful act of perfidy, and to that I presented a petition to the Bombay Government, but the answer to which was, by reason of a league between the Resident and the Natie, that the petition was not to be taken into consideration. In consequence of this answer, I then, out of resentment, proceeded to Poonah and presented a petition to the honourable the Governor, at Dapoorie, reflecting on the intrigues of the Natie, the enormous bribes that he secretly managed to procure for himself, and the different acts of machinations in which he had been engaged, and for which I secured him high "enams" and pensions. No answer, however, was returned to this petition, and I was next obliged to proceed to Bombay, where I presented two other petitions to Government, to the same effect as the first, and the reply thereto was, from Mr. Secretary Willoughby, that no inquiry would be instituted into the matter therein contained. Having met with such neglect from the local government, I now beg to forward, along with the present letter, copies of the three petitions alluded to, and their original answers, with a request to inform your honourable Court that Mr. Secretary Willoughby and the Resident, Colonel Ovens, having entered into a close intimacy with the Natie, decline instituting the asked for inquiry. But it appears highly astonishing that when a jaghiredar, enamdar, and other of the British Government, accepts of enormous bribes, and conducts himself in such a highly disgracing manner, no inquiry is instituted into the matter.

I undertake, if inquiry be instituted, to prove to the full satisfaction of your honourable Court, the various acts of much machinations and intriguing that Balajee Punt Nati had been engaged in, and the false reports that he contrived to get up. I am ready and willing to support this accusation against the Natie by competent witnesses and documentary proofs. Since the Resident, Colonel Ovens, and Mr. Secretary Willoughby will not institute any inquiry into the matter in question, and since they are determined to avoid it by any means to defend the character of the Natie, I beg that your honourable Court will soon take into its consideration all the papers that I have herewith transmitted to it, and hasten to send instructions to the local government to call the wished-for committee to inquire into the accusation against the Natie; and, in conclusion, I entreat your honourable Court that, if the commission be appointed, its members will not be such as are either related to, or the friends of Colonel Ovens and the Secretary Mr. Willoughby, but such as are impartial judges.

Once more, then, I say that I undertake to prove to the entire satisfaction of the Commissioners, the local Government and your honourable Court, the different intrigues of the Natie to fill his own coffers.

I remain, &c.

(signature, Native character.)

Bombay, December 1844.

(No. 2.)

I, *Henry Collins*, notary public, duly authorized, admitted and sworn, dwelling and practising in Bombay, in the East Indies, do hereby certify that *Crustnajee Sadasew Bhidday* did declare before me that the paper writings hereunto annexed, marked respectively with the letters (A.) and (B.), are faithful and true copies of certain petitions presented to the Governor of Bombay in Council by him, the said *Crustnajee Sadasew Bhidday*.

In faith and testimony whereof I, the said notary, have hereunto subscribed my name, and set and affixed my seal of office at Bombay aforesaid, this 13th day of December, in the year of our Lord 1843.

(signed) *Henry Collins*,  
Notary Public, Bombay.

(H. C.)

(No. 3.)

I, *Crustnaje Sadasew Bhidday*, of Sattara, now residing in Bombay, do hereby make oath, and solemnly declare, that the several charges preferred against Ballajee Punt Natie, in the two petitions that I have presented to the Bombay Government, the former dated 29th day of September 1843, and the latter dated 10th day of November 1843, are just and correct, and I pledge myself to support them as such by legal and competent witnesses, and also by documentary proofs now in possession of local government. I further make oath and declare, that the said Ballajee Punt Natie made the deposal of the late Raja of Sattara subservient to the aggrandizement of himself and his creatures, and that he (Ballajee) had promised me, in connexion with the affair of Girjabaye, the sum of 1,250 rupees, and that out of this sum Ballajee paid me only 150 rupees, through the Resident, Colonel Ovens, and that, after availing himself of my services, he now refuses to pay me the remainder of the promised sum. The annexed are the two copies of the petitions presented to the Bombay Government, under date as above stated.

(signature, Native character,)

*Crustnaje Sadasew Bhudday.*

Sworn at Bombay, this                      day of December 1843,  
Before me,

Interpreted by me, Ardaseir Byranje, Law Interpreter.

( B.—No. 5.)

To the Honourable the Governor in Council of Bombay.

The humble Petition of *Crusnaje Sadasew Bhidday*, of Sattara, now in Bombay,  
residing in Annichund Setts Warree.

Respectfully sheweth,

THAT your petitioner presented a petition to your honourable Board on the 29th September last, earnestly requesting the appointment of a commissioner to inquire into and report upon certain charges of corruption preferred against Ballajee Narrain Nattoo, a jaggeerdar of the British Government. He also gave a supplementary petition on the 12th ultimo, stating, that during the investigation of the charges of treason against the late Rajah of Sattara, your petitioner was considered by Colonel Ovens an honest and competent witness, and his evidence was received as credible, but that now, when he had come forward with a complaint of so serious a nature against his friend and adherent, that officer, as your petitioner was informed at Sattara, denounced him as a bad character!

That although it is nearly a month and a half since the first petition was delivered into Government, no commission has yet been appointed. The delay is very injurious to the cause, for if the Resident comes to know of the specific charges preferred against Ballajee Punt, whom he is apparently determined to protect to the last, and at any expense, there is every likelihood of some of the witnesses whom your petitioner wishes to bring forward in support of his petition being tampered with. It is, as your petitioner has already before observed, doing great injustice to the subject to refer the petitioner to Colonel Ovens, and to decide upon it according to his report, for when his own character is involved in the issue, he cannot possibly be expected to conform strictly to the principles of truth in reporting upon its merits. Moreover, it is too much to expect the persons who have given bribes to the Nattoo, a greater portion of them to answer their own views, to divulge their own secrets before the Resident; nay, that officer's influence is sufficient to frighten them all into silence; and unless the witnesses and papers which your petitioner has to produce in support of the charges are duly examined, the inquiry, whether instituted by Colonel Ovens or by any other officer, cannot be considered to be complete. The evidence which your petitioner has to adduce against Ballajee Punt Nattoo, will not only show culpable neglect on the part of the Resident, but a concealment, when brought to his notice, of some of the frauds committed by the Nattoo.

There are points to which the mature consideration of your honourable Board is particularly requested. Is it not a great waste of time, under such circumstances, to make any reference at present to the Resident.

That your petitioner humbly prays that he may be favoured with an early intimation whether or not Government intends to appoint a commission, that he may act accordingly.

And your petitioner, as in duty bound, shall ever pray.

(signed, Native character,)

*Christnaje Sadasew Bhidday.*

(No. 6.)



(No. 6.)

To the Honourable the Governor in Council.

Honoured Sir,

I DID myself the honour to present a petition to your honourable Board, on the 29th September last, requesting a proper inquiry into certain charges of bribery and extortion against Ballajee Narrain Nathoo therein specifically mentioned. Indeed, I am a man in humble circumstances, but the Nathoo, a privileged gentleman, has in the course of his villainous transactions deprived me of a sum of 1,100 rupees, which was promised me as a reward for services rendered in connexion with the late inquiry at Sattara. I was, on that occasion, a competent and honest witness, and my evidence was received by the Resident as credible; but now, when I prefer criminal charges against Ballajee Punt, his friend and adherent, Colonel Ovans, as may naturally be expected, denounces me as a bad character! His Highness the Raja, I understand, joins the Resident in his opinion of my character, which, however, is not wonderful, when his Highness is a creature of, and a mere puppet in the hands of Colonel Ovans.

I beg, however, respectfully to represent, that if the Resident asserts that the charges are unfounded, his assertion is far from truth, and I am prepared, as already stated in my petition, to substantiate them before a commission of inquiry; may I therefore humbly solicit an early intimation of the decision of Government on the subject, and remain,

With the most profound respect, &amp;c.,

(signature, Native character,)

*Crustnajee Sadasew Bhuduy.*

(No. 7.)

(No. 6 of 1843, Political Department.)

To Crishnajee Sudashewa Bheday, Poonah.

IN reply to your petition, dated the 29th June last, preferring certain complaints against Ballajee Punt Nathoo, I am directed by the honourable the Governor to inform you, that the decision of Government communicated to you under date the 3d of the same month, in reply to your former petition, dated the 14th January last, is final, and that no further petitions on this subject will be received from you.

By order of the honourable the Governor,

(signed) *J. P. Willoughby,*

Poonah, 10 August 1843.

Secretary with the Governor.

(No. 8.)

(No. 2461, Political Department.)

Bombay Castle, 13 October 1844.

I AM directed by the honourable the Governor in Council to acknowledge the receipt of your petition, dated the 29th ultimo, and to signify to you that the subject thereof is under consideration, and that an answer will be returned to you as soon as possible.

By order of the honourable the Governor in Council.

(signed) *J. P. Willoughby,*  
Secretary to Government.To Krushnajee Suddasew Bheeday, Sattara,  
Umerchund Shetts Wadee, Bombay.

(No. 9.)

To the Honourable the Governor in Council, Bombay.

The humble Petition of Crustnajee Sudusew Bidey, of Sattara, now in Bombay, residing in Amurchund Setts Warree.

Respectfully sheweth,

THAT your petitioner presented a petition to your honourable Board on the 29th of September last, earnestly requesting the appointment of a commission to inquire into and report upon certain charges of corruption preferred against Ballajee Narrain Nattoo, as jageerdar of the British Government. He also gave in a supplementary petition on the 12th ultimo, stating, that during the investigation of the charges of treason against the late Raja of Sattara, your petitioner was considered by Colonel Ovans an honest and competent witness, and his evidence was received as credible, but that now, when he had come forward with a complaint of so serious a nature against his friend and adherent, that officer, as your petitioner was informed at Sattara, denounced him as a bad character.



That, though it is nearly a month and a half since the first petition was delivered into Government, no commission has as yet been appointed. The delay is very injurious to the cause; for if the Resident comes to know of the specific charges preferred against Ballajee Punt, whom he is apparently determined to protect to the last, and at any expense, there is every likelihood of some of the witnesses whom your petitioner wishes to bring forward in support of his petition being tampered with. It is, as your petitioner has already before observed, doing great injustice to the subject to refer the petition to Colonel Ovans, and to decide upon it according to his report, for when his own character is involved in the issue, he cannot possibly be expected to conform strictly to the principles of truth in reporting upon its merits; moreover, it is too much to expect the persons who have given bribes to the Nattoo, a greater portion of them to answer their own views, to divulge their own secrets before the Resident, nay, that officer's influence is sufficient to frighten them all into silence; and unless the witnesses and papers which your petitioner has to produce in support of the charges are duly examined, the inquiry, whether instituted by Colonel Ovans, or by any other officer, cannot be considered to be complete. The evidence which your petitioner has to adduce against Ballajee Punt Nattoo, will not only show culpable neglect on the part of the Resident, but a concealment, when brought to his notice, of some of the frauds committed by the Nattoo. These are points to which the mature consideration of your honourable Board is particularly requested. Is it not a great waste of time, under such circumstances, to make any reference at present to the Resident?

That your petitioner humbly prays that he may be favoured with an early intimation whether or not Government intends to appoint a commission, that he may act accordingly.

And your petitioner, as in duty bound, shall ever pray.

Bombay, 10 November 1843.

(signed, in the Native character.)

(No. 10.)

LETTER in the Native character.

Translation of the Declaration of Ram Row Bulvant Nisbet Nimbalkur, dated the 26th of December 1843.

I do hereby declare, that the Nimbalkur directed me to convey fifteen thousand rupees (15,000) to Ballajee Punt Dádá Natú. Agreeably to his instructions I brought ready cash to that amount from Akalkoat, and paid it at the shop of Ekandoba Naique Chállé, shroff, at Sholapore, and from thence took the hoondies, which were delivered at the shop of Gokooldas, shroff at Poonah, and the amount received from him was paid to Ballajee Punt Natu; this amount the Natu obtained by means of his threatenings, and is in fact a bribe, which I can prove to the satisfaction of the Government. This is my own writing.

(signed) *Ram Row Bulvant Nisbet Nimbalkur.*

(No. 11.)

TRANSLATION from the Mahratta original.

A YAD of Girjabae Mahajanee, the mother of Govind Row, dated 11 June 1838.

I KNOW not of my son Govind Row, upon what reason he has been imprisoned, or the circumstances, neither did I say any word about, nor give petition on the subject, but know not whether any person would have written on my part through enmity, like other vicious people, who hire other people to preserve their cause; such a thing I shall never do; and, for my case, if his Majesty is not satisfied, I shall, with my two sons, Wamun and Mahadavee, take an oath on Gunga (water of the Ganges). I am a poor woman; what should I say more? His Majesty is well acquainted with my conduct, but at fabrication cannot help (that I am incapable of fabrication).

(signed) *Wamun Row Kittul,*  
for his mother, *Girjabae Mahajanee.*

(No. 12.)

DECLARATION of Govind Row, of Sattara, who was imprisoned at Ahmednuggur.

I do hereby solemnly declare, that my mother, Girjabae, did not prefer an urzee or application to the Resident or the Government, but that it was given by Ballajee Punt Nattoo, through a karkoon, in the name of my mother, and the said karkoon now enjoys a pension under Ballajee Punt's administration in Sattara; that the depositions which I gave were exacted from me while I was imprisoned in a dark dungeon at Ahmednuggur; that considering there was no justice with Government, and that if I did not adhere to what the

the Sirkar (British Government) wished me to do, I would lose my life, I was therefore forced, in order to preserve my life, to give my statements in writing according to the instructions of Mr. Hutt. I do now state that it is entirely false and extortion.

(signed) *Govind Row Wittul Nisbut.*

Dated, Sattara, 8 January 1842.

Witnesses,

*Narrayen Row Wittul.*  
*Rowjee Ramchunder.*

(No. 12.)

TRANSLATION of a Letter from Girjabhae Mahajani (mother of Govind Rao) to Balwunt Rao Chitnis Pundit Sumunt, at Poonah.

Maholi, near Sattara, the 5th of Maghwadh  
(19th February 1843.)

WHEN my son was imprisoned by the honourable Company, some unprincipled men taking advantage of my situation, wrote an urzee (petition) in my name to the Resident at Sattara. My son hearing of it, asked me whether I had authorized this proceeding, to which I replied that not only had I never thought of writing such a petition, but expressed my utter astonishment at such a piece of imposition, and told him to be assured that I had never directly nor indirectly sanctioned such a transaction, and that it was a gross piece of forgery. To impress this more strongly on his mind, I took a solemn oath on the Tulsee leaf to that effect. My son seemed perfectly satisfied, and must have written to you on this subject. I have myself written to you, in order that you should make the matter known as publicly and extensively as you possibly can. If I am ever asked or referred to on this subject, I shall certainly expose the whole piece of imposture to every body. It is perhaps unnecessary for me to say that I could never sanction such a thing in the remotest degree. Once only, with the permission of his Highness the Raja, did I wait on the Resident, Colonel Ovens, in the daytime between the hours of eleven and twelve, and this was for the express purpose of soliciting him to prevent my son being removed from Ahmednuggur, as I had heard it was in contemplation to have him sent to another prison. Bad as the former was, I preferred he should remain there to his being deported elsewhere; and it was simply to prevent this, that I was induced to see the Resident. I never entered upon any other subject whatever with him.

Knowing the position you held, and the influence you exercise over his Highness, I have taken the liberty of writing you this letter, which I have had attested by two witnesses whose signatures are hereto affixed.

(signed) *Chimnaje Narrain,*  
for Girjabhae Mahajani, by her order.

(signed) *Yedneshwur Bhal Prabhunday,* Native of Maholi.  
*Chimnaje Narrain Moghay,* Native of Maholi.  
Witnesses to the oath and letter.

(True translation.)  
(signed) *Rungo Bapojee.*

EXTRACT Bombay Political Consultation, 12 April 1843.

From *Crustnaje Suddasew Bhirray* to *J. P. Willoughby, Esq.,* Secretary to Government, Bombay, dated 22d December 1842.

No. 1399.

Sir,

I HAVE the honour to enclose herewith an urzee in Mahratta language, regarding the former case in Secret Department, for which I request that your Honor will have the goodness to translate it in English, and to take it into your serious consideration. Further requests that after taking the circumstances into the consideration of the honourable the Governor in Council, he may be favoured with the favourable answer as soon as possible for the same.

I have, &c.

Sattara,  
22 December 1842.

(signed) *Crustnaje Suddasew Bhirray.*

(Persian Department.)

SUBSTANCE of a Petition from *Crustnaje Suddasew Bhirray*, now residing at Sattara, to the Honourable the Governor in Council, dated 22 December 1842.

I BEG to represent that as Govind Rao Dewan was put into custody on account of the political proceedings of the ex-Raja of Sattara, his mother Geerja Bae, widow of Wittul Ballal Mahajunee, sent Luxoomuu Punt Bhagwut to me, and caused a representation of her

her circumstances to be laid through me before Government; in consequence of which Abba Josee took me to Ballajee Punt Dada Nattoo. Nattoo having looked over the papers of Geerja Bae's case, which were in my possession, said that they were useful to the Resident, that I should give them to him (Nattoo) to be made over to the Sahib; that I should furnish a statement in writing of what might have been done through me; that the Sahib would be pleased with me, that I would receive the amount of the reward, for which Geerja Bae had passed a writing to me, and that such an arrangement as I would wish would be made. Having made such promises, Nattoo took the papers from me and gave them to the Resident, to whom he afterwards introduced me, when I furnished to him (the Resident) a written statement of what had taken place, which proved satisfactory to him; subsequently Nattoo having given me rupees 50 on account of the reward of rupees 1,250 stated in the Bae's writing, took a receipt from me in the name of the Resident, and intimated to me that the payment of the rupees 50 must be considered an acknowledgment of the obligation to pay the remaining rupees 1,200, which would be paid to me on the conclusion of the investigation. The Resident and Nattoo also told me, that I should not go to Geerja Bae, but should remain quiet; subsequently a batta of rupees, six per mensem, was paid to each of us; viz. myself, Talia Agasia, and Kooseaba, Govind Row Dewrao's khizmutgar. When the inquiry was completed, Nattoo having called me to his house, told me that my attendance was no longer required, and that he was desired by the Resident to dismiss me with the payment of the reward. Having placed rupees 100 before me on account of the reward promised to me by Geerja Bae, Nattoo asked me to pass a receipt for rupees 1,200; when I said that on the payment of rupees 1,100 more I would pass a receipt for rupees 1,200. This enraged Nattoo, who took a receipt from me only for rupees 100; subsequently I went to the Resident with a petition, requesting the payment of the remaining rupees 1,100. Nattoo being present there at the time, heard the contents of my petition when it was read to the Resident; and as he had already been indignant at my having refused to pass a receipt for rupees 1,200 on receiving only rupees 100, asked me in the presence of the Sahib, when was the payment of rupees 1,100 promised to me, and also said other things, to which I replied, that amongst the papers belonging to Geerja Bae, which were taken from me for political purposes, there was a document promising me a reward of rupees 1,250, and that I had no remedy left to myself when he (Nattoo) himself said so (denied it). On this the Sahib and Nattoo told me to go away for that time. Nattoo having made some misrepresentation to the Sahib in my absence, made such arrangements that I could never obtain access to him; and if I ever succeeded in presenting myself before him, he would, after getting angry with me, refer me to him (Nattoo). On my coming to know this, I called on Nattoo and told him, that as he would not make any settlement of my rupees 1,100, my pension, and of the rewards promised to me in writing by the persons in whose behalf I had made petitions to Government, and whose claims were admitted in his Highness's government, I would go to some foreign country. Thinking that I would make a complaint to your Excellency in Council, Nattoo asked me why I wanted rupees 1,100; he would pay me rupees 300 more, and I should pass a receipt for rupees 1,100; to which I replied, "Dada, I am a poor man of large family. I have incurred a very heavy debt on account of (my) marriage (expenses), be pleased to pay me rupees 1,100, which will redound to your fame." On this Nattoo said that he would try; until my other cases were brought to an end he would cause a batta of rupees eight per mensem, to be paid to me, and that subsequently he would grant me a pension. I, therefore, instead of maintaining myself at my own expense, and conducting the cases, received rupees eight per mensem; meanwhile the Furnavees directed me to write Government business in the Hushum kucherry. I intimated this to Nattoo, who said that as my cases which were pending must be favourably settled, I must try to bring them to an end, and sometimes write Government business in order to please the Government officers. Finding thus that no remedy was left to me, I took the trouble of writing Government business on account of my cases. But Nattoo made such arrangements as would prevent my cases from coming to an end. He also held out to me hopes of rupees 1,100 being paid, and a pension similar to others granted to me, but nothing was done. Nattoo pretends to be a great and honest man, and in the beginning having made such statements to the Sahib as were favourable to me, showed me his honesty; but the same Nattoo, with the desire of appropriating the money to himself, has made false representations to the Resident, and having dismissed me, has made arrangements for his own benefit, and that of his relations and friends. There will be no end to my writing on this subject. I am a poor man. Nattoo would not have to lose anything from his own pocket in paying me the amount of the reward in question, nor in granting me a pension, nor would there be any loss to the British Government; the expense incurred on account of political purposes, with the consent of the Resident, has been defrayed by his Highness's government. Besides, Nattoo having directly represented to his Highness that he had incurred great expenses for procuring intelligence, evidence, &c., received privately a large amount. Abba Josee and Nattoo, although they gave me great hopes, have committed breach of faith with me in every respect. They have not granted me a pension, and besides try to deprive me of rupees 1,100 also. I have, therefore, submitted a true statement of the circumstances from the beginning, and the papers regarding them which must have been forwarded to Government, comprise the agreement executed to me by Geerja Bae, relating to the reward of rupees 1,250, as also the receipts in the name of the Resident, and other papers which the Resident took from me, (a reference to them will convince your Excellency in Council) of the truth of my representation. Having been ruined in every respect, I have submitted this representation, and request that your Excellency in Council will be pleased

pleased to take it into consideration, and to issue instructions to the Resident to cause my money to be paid to me agreeably to the agreement, and a pension to be granted to me. As I have laid this representation before your Excellency in Council, Nattoo and Josee may attempt to misrepresent matters to the Resident, and induce him to be displeased with me, I, therefore, earnestly entreat that the Resident may be directed not to pay attention to their misrepresentations, to view my case with an indulgent eye, to require Josee and Nattoo to cause my 1,100 rupees to be paid to me, to obtain the grant of a pension to me from Government, and to protect me.

(signed) *R. K. Pringle,*  
Secretary to Government.

(No. 41 of 1843.—Political Department.)

THE Resident at Sattara is requested to submit his report on this petition.

By order, &c.

(signed) *J. P. Willoughby,*  
Secretary to Government.

Bombay Castle, 7 January 1843.

REPORT from the Resident at Sattara, dated 7 February 1843.

No. 1400.

THE Resident begs leave respectfully to refer Government to his despatch and accompaniments in the Secret Department, under date the 16th of August 1838, for every particular regarding this petitioner.

2. As the name of Ballajee Punt Nattoo, however, is prominently brought forward in this petition, it was considered only just towards that highly respectable and upright man to request his own explanation of these circumstances, I beg, accordingly, to annex a translation of the statement transmitted to me by Ballajee Punt Nattoo for the information of Government; and I trust, I may be permitted to add, that I can myself confirm the correctness of this statement.

3. The prayer of this petitioner is stated by himself to be, that the reward due (as he says) to him by Geerja Bae, the mother of Govind Rao Veetul may be paid to him conformably to her agreement, and that a pension may be granted to him.

4. As regards the reward promised to him by Geerja Bae, I know nothing; and it is clear that the British Government has nothing whatever to do with that. If this petitioner has any claim against Geerja Bae, he should bring forward that claim in the regular courts of this country, or make a petition to his Highness the Raja of Sattara.

5. As regards the pension claimed by this person, this claim is perfectly groundless. This witness came voluntarily forward; he was brought to me like any other witness; I took his deposition, and forwarded the same to Government. His travelling expenses were paid, and he was allowed subsistence money like all the other witnesses who were examined and detained here. But, beyond this, he never has had, nor has he now, any claim whatever either on the British or Sattara Government. No promise of any reward in any shape whatever was ever made to him by me; on the contrary, he was distinctly told from the first, that I would not interfere regarding his claim on Geerja Bae, and I never did interfere, either to enforce it or otherwise.

6. This being the case, it will, I trust, be evident to Government that the statements in this petition regarding Ballajee Punt Nattoo and myself are entirely false. It is satisfactory, however, to find that this petitioner, though now evidently discontented, does not venture to impugn the truth of his former statements, and, therefore, this petition may fairly be considered as a further proof of the correctness of the information submitted to Government in my despatch above alluded to.

7. If Government is pleased to approve of what is above stated, I beg respectfully to suggest that this petitioner be informed, that this is a matter in which the British Government will not interfere.

(signed) *C. Ovens,*  
Resident at Sattara.

Sattara Residency, 7 February 1843.

TRANSLATION of a Yad from *Ballajee Narrayen Nattoo* to the Resident at Sattara, under date the 25th January 1843.

A. C.

A YAD under date the 19th instant has been received from your honour, stating "that Crustnaje Suddasew Bheeray has presented a Mahratta petition to the honourable the Governor in Council at Bombay, and that the same has been sent here by the Governor in Council; and that as your name appears in several parts of this petition, you will, after perusing it, give in a communication regarding the circumstances herein alluded to;" so it is stated (in the Resident's yad). With regard to this, it appears that these circumstances are falsely stated by the Bheeray in his petition, with a view to obtain a reward or pension. The facts with which I am acquainted on this subject are thus,—Geerja Bae, the mother of Govind Rao Wittul, forwarded a petition to Government, which was referred to the Resident

Sahib Bahadoor to inquire into ; upon this, the Resident Sahib sent for the above Bae to come to the bungalow to be personally asked ; when she secretly visited the Resident Sahib, and declared that the petition was made by her. Two or three months afterwards, Crustnaje Suddasew, the writer of that petition, whom I had never seen before, was introduced to me by Abba Josee, and showed me a copy of the above petition ; I then introduced him to the Resident Sahib, to whom he also showed the above copy of the petition, as well as two letters he had received from Geerja Bae ; the Sahib then put certain queries to him, the answers to which he gave in writing, under date the 20th September 1837 ; afterwards, the Sahib procured evidence from the Post-office at Punderpoor as to the despatch of this petition, when the petition was found to have been written by him (the present petitioner). Geerja Bae did not at first state the name truly of the writer of the petition, the reason of which was given in writing, under date the 1st May 1838. Crustnaje Suddasew came of his own accord, and was not sent for by any body, and his evidence was of no consequence to Government, nor did any person promise him any enam or reward. Notwithstanding this, he (the petitioner) states, that the Nattoo said that these papers would be useful to the Resident Sahib, that whatever the Bae might have promised, the same would be granted, and that such an arrangement as he wished would be effected, such was the assurance given by him as well as by the Resident Sahib ; this and other circumstances have been slanderously stated, and are utterly unwarranted. He made a petition to the Sahib, that he had nothing to subsist upon, that he lived by borrowing, and that he was starving for want of food. Consequently, the Sahib was good enough to grant him a sum of 50 rupees for his livelihood ; afterwards, he received five rupees per mensem with the other witnesses as subsistence. But subsequently, when the ex-Raja proceeded to Nimb, he (the petitioner) and all the other witnesses, were permitted to return to their respective homes, and he then petitioned the Sahib, that as he had been out of employment for a long time, nothing was left to defray the road expenses to go to his house ; upon this, a sum of 100 rupees was granted to him for road expenses. This is all I know.

He (the petitioner) also states, that he was directed by the Sahib and the Nattoo not to go to Geerja Bae ; as to this, no part of his statement can be relied upon. Had Geerja Bae promised him any thing, no one stood in his way either now or then. But he has no claim of any kind against Government, either for reward or pension. As there is no punishment inflicted upon persons making false statements, no fear is entertained of slandering any person whatever, and this is the reason of this petition.

(True Translation.)

(signed) C. Ovans,  
Resident at Sattara.

(No. 735.)

No. 1401.

RESOLUTION of Government in the Political Department, dated the 6th April 1843.

WITH reference to the translation of a petition from Crustnaje Suddasew Bhirray, dated the 22d December last, claiming a pecuniary reward and pension, alleged to have been promised to him by the mother of Govind Rao, the late Dewan of the ex-Raja of Sattara, for certain services rendered by him, *Ordered*, that the petitioner be informed, through the Persian Department, that this is not a case in which the British Government can interfere.

(signed) J. P. Willoughby,  
Secretary to Government.

(No. 736, of 1843.)

No. 1402.

From J. P. Willoughby, Esq., Secretary to Government, Bombay, to Lieutenant-colonel C. Ovans, Resident at Sattara, dated 6 April 1843.

Sir,

WITH reference to your report, dated the 7th February last, on the petition from Crustnaje Suddasew Bhirray, dated the 22d December last, claiming a pecuniary reward and pension, alleged to have been promised to him by the mother of Govind Rao, the late Dewan of the ex-Raja of Sattara, for certain services rendered by him, I am directed by the honourable the Governor in Council to acquaint you that the petitioner has been informed that this is not a case in which the British Government can interfere.

I have, &c.

(signed) J. P. Willoughby,  
Secretary to Government.

Bombay Castle, 6 April 1845.

EXTRACT

EXTRACT Bombay Political Consultation, 14 June 1843, Persian Department.

SUBSTANCE of a Memorandum from *Crushnaje Suddasew Bhirray*, residing at Sattara, to the Honourable the Governor in Council, dated 14 January 1843.

No. 2405.

THE answer which was returned to me, under date the 7th instant, acknowledging the receipt of my petition, afforded me great pleasure. Since the Honourable the Governor in Council evinces a kind regard (for the interests) of the helpless poor, I feel assured that just claims will meet with due attention. I now beg to forward herewith copy of a document which should have accompanied my (former) petition. The reason why it is necessary to lay this document before Government is, that Ballajee Punt Dada Nattoo, without paying the amount due to me, misrepresented matters to the Resident, and persuaded him to the belief that I was "toofanee," that is, I had set up a false claim. Nattoo having called me to his house, he himself proposed questions to me, and when, from the answers I returned, he was satisfied that he must pay me the remaining 1,100 rupees, agreeably to the Bae's deed for 1,250 rupees, he did not bring the questions and answers to the knowledge of the Resident, but retained them with himself, and kept me in suspense by promises of payment. Nattoo is an affluent man, and has been much accustomed to manage affairs in a manner by which any object in which he is interested is accomplished without fear of detection. Under such circumstances, what difficulty can he experience in depriving me of my 1,100 rupees? Nattoo may also misrepresent things against me to the Resident, and cause him to write such things to your Excellency in Council as will tend to accomplish his purpose? I, therefore, request that the questions and answers which passed between me and Nattoo at his house, and which are still with Nattoo, may be called for, and those which took place in the presence of the Resident, and Nattoo and myself, may also be examined by your Excellency in Council, when I shall be able to render Nattoo's fraud clear to your Excellency. In short, I beg to say that there is none except your Excellency in Council, to whom I can look for kind interposition in obtaining payment of the 1,100 rupees due to me; under such impression, I write often to Government, and request that, taking this representation into consideration, Government will be pleased to cause my money to be paid to me, and a pension granted to me along with others.

(signed) *R. K. Pringle*,  
Secretary to Government.

To *J. P. Willoughby*, Esq., Secretary to Government, Bombay.

Sir,

IN acknowledging the receipt of your order, No. 42, under date the 7th instant, I am much pleased, and understood the contents thereof.

I have the honour to enclose herewith a yadee in Mahratta, for the consideration of the honourable the Governor in Council, regarding the answers of questions, taken from me by Ballajee Punt Nattoo, privately at home, together with copy of the questions and answers, for which I request your honour will have the goodness to translate these papers in particular in English, and take into your serious consideration, then the real case will be easily understood.

I have, &c.

Sattara, 14 January 1843.

(signed) *Crushnaje Suddasew Bheeray*.

(Persian Department.)

TRANSLATION of the Questions proposed to *Crushnaje Suddasew Bhirray* in the month of March 1840, and the Answers returned by him.

**Question.**—Geerja Bae Mahajanee having deputed Luxoomun Punt Bhagwut Shekhdar (to you) as intercessor, caused a representation to be laid before Government through you, and letters were written to you in the name of the Bae, promising a reward (for the same); state then, whether these letters were transmitted to Wittul Ballal, a karkoon of the Judicial Department, who was at Pundhurpoor, by Bhagwut or the Bae herself; state in whose handwriting they were, and how you can prove the point by confronting the above-mentioned two persons.

**Answer.**—When the whole of the papers in my possession connected with the Bae's case were taken by you from me and delivered to the Resident, you and the Resident were satisfied that they established certain transactions regarding which evidence was desired, in consequence of which you considered that there was no necessity for the attendance of Bhagwut, whom you had sent for, for the purpose of being confronted, and therefore caused him to return. The letters which were (written) to me by Bhagwut in the name of the Bae, found their way to Wittul Bullal, who delivered them to me. The notes written regarding these letters by Wittul Bullal, in his own handwriting, were torn by himself, but these were pasted together by me. The notes in this state were delivered by you to the Resident, along with the other papers. These notes afforded you conclusive evidence, and consequently Wittul Bullal was not sent for, and therefore you, yourself, stopped the confrontation (of the parties concerned). On this

point, documentary proof is in existence. I do not know who was caused to write the letters which I received from the Bae while I was at Pundhurpoor; the Bae and Bhagwat must know it. The notes of the Bae, Bhagwat and Wittul Ballal themselves afford every proof. No new proof is, therefore, necessary to be adduced by me.

*Question 2d.*—Geerja Bae does not acknowledge (the promise of reward). Give your explanation on this point?

*Answer.*—When, after having been satisfied from the papers (in my possession), you introduced me to the Resident, and gave to him the papers executed to me by the Bae regarding the reward, you agreed to pay the reward promised to me by the Bae, and having given me 50 rupees, out of 1,250 rupees, intimated to me, that you would pay the remaining 1,200 rupees on the conclusion of the inquiry. With such an engagement, you and the Resident induced me to remain (with you), allowing me a batta of five rupees per month, and gave me peremptory directions not to go to the Bae at all. I have, therefore, nothing to do with the Bae's denial; for instance, Purtabsing Maharaja, carried on certain political intrigues, and as he did not confess them during the inquiry, he forfeited the friendship existing between him and the British Government, was deprived of all benefits and lost his throne; and all persons (who gave evidence against him) were benefited. It is not necessary that I should relate these things under such circumstances, there remains no ground on which I should be questioned regarding the Bae's denial.

*Question 3d.*—You have stated in writing that the notes are in the handwriting of Wittul Ballal himself; state then how you can prove that the writing is of Wittul Ballal.

*Answer.*—Wittul Ballal should be questioned (on the subject), and if he denies it, the notes may be compared with the numerous papers in his writing, which are with the Maharaj Sircar. This is the proof.

(signed) *R. K. Pringle.*  
Secretary to Government.

(No. 685 of 1843.—Political Department.)

Lieutenant-colonel Hickes is requested to submit any remarks he may have to offer on this petition, in connection with the reference made to the Resident at Sattara on the 7th January last, on a former petition from the same individual.

By order, &c.

Bombay Castle, 28 March 1843.

(signed) *J. P. Willoughby,*  
Secretary to Government.

No. 2406.

REPORT from the Resident at Sattara, dated 22d April 1843.

THE Resident begs leave respectfully to refer to his report under date the 7th of February last, on a petition of this same individual under date the 22d of December last, and referred for the Resident's report under date the 7th of January last.

2. The Resident also respectfully solicits the attention of Government to the decision of Government passed on this case, as communicated to him in the Political Department from Mr. Secretary Willoughby, No. 736, under date the 6th instant, in which it is stated that the petitioner has been informed that this is not a case in which the British Government can interfere.

3. The Resident trusts also he may be permitted to add, that there is no new matter whatever requiring reply in this petition; all the documents in this case were duly laid before Government, as formerly stated in the Resident's letter in the Secret Department, under date the 16th August 1839, and besides these, there were no other examinations, either by the Resident or by any other person.

4. It may be right, however, to report with reference to this petition, and for the information of Government, that Geerja Bae, the mother of Govind Row, the person alluded to in this petition, died at Mahowlee, a village near Sattara, on the 3d instant.

(signed) *C. Ovens,*  
Resident at Sattara.

(No. 1268.)

No. 2407.

RESOLUTION of Government in the Political Department, dated the 3d June 1843.

WITH reference to the translation of a petition from Crustnaje Sadashew Bhirray, dated the 14th January last, reiterating his claim to a pecuniary reward and pension, alleged to have been promised to him by the mother of Govind Row, the late Dewan of the ex-Raja of Sattara, for certain services rendered by him; *Ordered*, that the petitioner be informed through the Persian Department, that the decision communicated to him, under date the 6th April last, is final, namely, that this is not a case in which the British Government can interfere.

(signed) *L. R. Reid,*  
Chief Secretary.

(No. 1269 of 1843.)

From *L. R. Reid*, Esq., Chief Secretary to Government, Bombay, to Lieutenant-colonel  
*C. Ovens*, Resident at Sattara, dated 3 June 1843.

No. 2408.

Sir,

WITH reference to your report on a further petition from *Crustnaje* *Sadashe* *Bhirray*, dated the 14th January last, regarding his claim to a pecuniary reward and pension, alleged to have been promised to him by the late *Geerja Baee*, mother of *Govind Row*, I am directed by the honourable the Governor in Council to acquaint you, that the petitioner has been referred to the answer returned to him on the 6th April last, as final, namely, that this is not a case in which the British Government can interfere.

I am, &amp;c.

(signed) *L. R. Reid*,  
Chief Secretary.

Bombay Castle, 3 June 1843.

EXTRACT Bombay Political Consultation, 13 September 1843.

No. 4008.

PETITION from *Crushnaje* *Sudashe* *Bhirray*, of Sattara, now residing at Poonah, to the Honourable the Governor of the Presidency of Bombay, Daporee, dated 29 June 1843.

Most humbly sheweth,

THAT your petitioner begs respectfully to state, that *Balajee Punt Nattoo*, while residing at Sattara during the inquiry of the state of the late Raja of Sattara, has acted very improperly and illegally in having received bribe from the *jahageerdars* and other *ryots* of Sattara, on account of their business having been done by the Resident and the Raja of that place, and has thereby ruined them; I have, therefore, made this petition to your Lordship, to request that your Lordship will be kind enough to allow me to see your Lordship, when I shall explain the above circumstances in detail to your Lordship, and evidential proofs to prove it, or else, let any other gentleman be instructed to inquire into it, by ordering me to see him secretly, when I beg leave to assure your Lordship I shall disclose every thing particularly about the conduct of *Balajee Punt Nattoo*. Indeed, worshipful sir, by so doing the poor *jahageerdars* and *ryots* will be protected from the ruin they have already suffered; I beg that I may be favoured with an answer to this at my residence at the house of *Raghoo Punt Thatye*, near *Nano Phudanwesh's* palace, in the *Boodwar* part of the city of Poonah. I also beg that this news should not be brought to the notice of the Resident at Sattara before its being inquired into.

And your Petitioner, &amp;c.

Poonah, 29 June 1843.

(signed) *Crishnaje* *Sodashe* *Bhirray*.

(Political Department.)

REFERRED for the opinion and report of the Resident at Sattara.

By order, &amp;c.

(signed) *J. P. Willoughby*,  
Secretary to Government.

Poonah, 20 July 1843.

REPORT from the Resident at Sattara, dated 28 July 1843.

No. 4009.

1. THE Resident begs leave respectfully to bring to the notice of Government, that this petition is from the same individual who formerly preferred complaints against *Balajee Punt Nattoo*, under date the 22d of December 1842, and 14th of January last, because, as he said, the mother of *Govind Row*, would not pay him what he demanded of her for services performed.

2. The complaints above alluded to were proved, by the Resident's replies, under date the 7th of February and 22d of April last, to be false and groundless as regards *Balajee Punt Nattoo*; and the petitioner has been twice informed by Government, under date the 6th of April and 3d of June last, that his was not a case in which the British Government would interfere.

3. Actuated by malicious feelings, however, this individual now brings forward a string of accusations in his own name, unsupported by one particle of evidence, against *Balajee Punt Nattoo*, with a request that Government will cause an inquiry to be instituted.

4. As regards this, I can bear witness, from my own personal knowledge of these transactions, that these accusations are entirely false and groundless, and that they are evidently made only with a view of injuring the character of one of the most respectable natives of rank in this country.

5. On looking, also, at these accusations, made by so worthless a character as this petitioner, it will naturally be asked, who has authorized him to stand forward as a public spy



and accuser. Have the jageerdars, who are stated to be the sufferers, authorized him to use their names? If they, or any other person mentioned in this petition, are aggrieved, why do they not themselves stand forward? No person, high or low, is denied access either to his Highness the Raja or to myself. I see every petition, and hear every complaint every morning myself; and Ballajee Punt Nattoo does not now himself reside in Sattara, nor is he employed or consulted by the Raja on public affairs, so that his presence or influence cannot be adduced as a reason for any party, who may be sufferers, not coming forward to complain.

6. But so far from there being any complaints against this upright and honest man, I am most thankful to avail myself of this opportunity of putting on record, that the jageerdars are one and all most grateful to Ballajee Punt Nattoo for his conduct towards them, and have often assured me, that in all their troubles, both during the Peishwas' Government and our own, he has befriended and preserved them; and as Mr. Elphinstone relied with the most entire confidence on Ballajee Punt Nattoo's local experience and integrity in the settlement of this country in 1818-19, many of them well know it is to him they owe their present position and wealth.

7. After what is above stated, I must leave it to Government to decide what course to pursue as regards this foul and malicious libeller. But it may be right to add, that as this petitioner has some trifling employment under the Sattara Government, and as there is some reason to believe that this petition is the result of some low intrigue here, perhaps, Government will permit me to communicate this matter to his Highness the Raja of Sattara, and to request that his Highness will deal with this man, being his own subject and servant, in any manner that may seem just and expedient.

(signed) C. Ovens,  
Resident at Sattara.

Sattara Residency, 28 July 1843.

No. 4009 (A.)

MINUTE by the Honourable the Governor, without date.

PETITIONER should be referred to the Government letter of the 3d of June, and be informed that that decision is final. The Resident to be informed, and no further petitions received on the same subject.

(signed) G. Arthur.

(No. 6 of 1843.)

No. 4010.

From J. P. Willoughby, Esq., Secretary to Government, Bombay, to *Crishnajee Suddasew Bhirray*, Poonah, dated 10 August 1843.

IN reply to your petition dated the 29th of June last, preferring certain complaints against Ballajee Punt Nattoo, I am directed by the honourable the Governor to inform you that the decision of Government communicated to you under date the 3d of the same month, in reply to your former petition dated the 14th of January last, is final, and that no farther petitions on this subject will be received from you.

By order, &c.

Poonah, 10 August 1843.

(signed) J. P. Willoughby,  
Secretary to Government.

(No. 7 of 1843.)

COPY of the above letter to be sent to the Resident, at Sattara, for information with reference to his report, dated the 28th ultimo.

(signed) J. P. Willoughby,  
Secretary to Government.

EXTRACT Bombay Political Consultation, 29 November 1843.

No. 5560.

PETITION from *Crushnajee Suddasew Bhirray* to the Honourable Colonel Sir G. Arthur, Governor and President in Council, Bombay, dated 29 September 1843.

Showeth,

THAT your petitioner had the honour of delivering into the hands of your Excellency's private secretary, Mr. Frere, while at Dapooree, a statement, dated the 17th of July last, containing grave charges of corruption and abuse of confidence against Ballajee Narrain Nattoo, an enamdar and pensioner of the British Government, and an individual ranked amongst the privileged classes of the Deccan.

The statement was written in the Mahratta language, but as no inquiry has taken place, which your petitioner has waited for, to adduce his evidence in support of the imputations, he is led to infer, that either your Excellency has overlooked the statement in the press of more important business, its contents having not been clearly understood, or the statement itself has been suppressed in some quarter. Your honourable Board is aware, that during the late inquiry into the charge of treason against the ex-Raja, Ballajee Punt was actively employed

employed under the Resident. His position and influence, therefore, gave him an ample opportunity, on the dethronement of the late Raja, to impose upon the new Raja his jageerdars, enamdars and other subjects, and by his threats and bullying, frightened them into a compliance with his exorbitant demands, both for specie and land, &c. The British Government, as is well known, removed Purtab Sing from the gaddee, and raised to it his brother, Shabjee Maharaj, otherwise called Appa Sahib, that the prosperity of the country may be promoted. But instead of the change which the humane intentions of Government had suggested being attended with all the good effects expected, it opened a wide door to Ballajee Punt, as will be perceived from the sequel, for a systematic course of bribery and corruption, and for burthening the finances of the Sattara state with expenses of a permanent, nay, a greater portion of a perpetual nature, having for their object merely the filling up of the coffers of the Nattoo, his family, his retainers, friends and favourites. The British Government, your petitioner presumes, did not ever intend that so great a portion of the revenues of the Sattara state should be so applied, but, on the contrary, it desired that it should be laid out solely upon improving the state of the country, and bettering the condition of the inhabitants.

2. That your petitioner will, without any further remarks here, now respectfully solicit the consideration of Government to some of the principal cases in which Ballajee Punt Nattoo has received large bribes, and committed great extortions; and he begs at the same time to represent that he is quite prepared to prove them both by oral evidence and written documents, before a commission of inquiry.

1st charge.—It is universally known that it was an act of grace on the part of the British Government to restore the possessions of the Punt Sucheo, and it is too absurd to say that Ballajee Punt influenced this measure of Government, notwithstanding his taking advantage of the minority of the Sucheo. Ballajee Punt made the chief's adoptive mother understand that had it not been for his interference, the jageer would never have been restored by the British Government, and he then formed a league with one of his karbharrees, by name Bajaba Sindkeer, and made a private demand for the payment of a lac of rupees as a present for his services. The Sucheo being unable to meet so heavy a demand from his own treasury, the Nattoo himself suggested a plan to the karbharrees, by which a portion of the sum was paid in hard cash, and for the remainder he received bonds to the effect that the said sum was advanced by the Nattoo, and was to be paid by annual instalments. To prevent the easy detection of this villainous transaction, the Nattoo has falsified both his own accounts and those of the Sucheo rendered to the Resident. By this arrangement the Sucheo was burthened with what is called a regular debt to the amount of about 80,000 rupees. The Nattoo now receives interest upon this sum, as well as instalments in liquidation of what is called the principal. He has moreover taken from the Sucheo two villages in enam.

2d charge.—A warra or house situated in the town of Sattara, and certain surunjamien enam villages belonging to the Punt Amatya, had been sequestered by the late Raja Purtabsing, as a compensation for restoring them to the Amatya on the dethronement of his Highness. Ballajee Punt made an agreement in the name of Ragho Punt Gagtey, a great favourite of his, to receive 8,000 rupees from the Amatya, and has actually received about half of that amount; besides this, the Nattoo made the Amatya give the Gagtey a piece of land as enam, to the value of 200 rupees.

3d charge.—When the Resident caused the uniul\* of Khuwaskhan of Khuwaskhan Gangabae Daffec, which had been seized upon by the ex-Raja to be restored to her, Ballajee Punt Nattoo made an agreement, through Bappoo Nisbut Khuwaskhan, to receive a present of 10,000 rupees, and actually received payment of half of that sum. But before the remainder could be paid, the Khuwaskhan lady died, when her property was confiscated, and Ballajee Punt Nattoo, out of resentment for the non-payment of the remainder of the bribe, sent a secret intimation to the kamgors of the Gutkur Ball Daffec, and instigated them to break open the backs put to Bappoo's house, and to seize upon and take away his property, consisting of cash, jewels, papers, &c. \* *Sic. orig.*

4th charge.—A certain person connected with the Daffey family, by name Ramchundrao Duffey, had not for upwards of 75 or 80 years held possession of six villages; nevertheless, Ballajee Punt Nattoo undertook to restore them to him, and made an agreement through Abba Josee, a person connected with him by marriage ties, to receive a large bribe. He then deceived the Resident by a misrepresentation, and induced him to cause the restoration of the six villages to Ramchunder Rao. These villages the Nattoo told the Daffey to mortgage to a Sowkar, which the Daffey did, and he obtained from the Sowkar a loan of about 16,000 rupees, and paid it to the Nattoo.

5th charge.—The British Government having directed, as usual, that the nearest male relation should be adopted by Bhageerthybaee Daffey of Jult, the Nattoo made the nearest heir to come to Sattara, and opened a negotiation with him for receiving a bribe; but the amount desired by him not being agreed upon, and the lady, who wished to adopt another boy, making a promise, through her vakeel Ragho Punt Wasugrekur, to give any present the Nattoo desired if the adoption was allowed agreeably to her wishes, the Nattoo managed to give her the boy she selected, and received a bribe of 15,000 rupees.

6th charge.—As Ballajee Punt at first felt it impossible to control Shaik Meera Waeekur, he brought a boy who pretended to be brother of that jageerdar, with the view of putting him in possession of the jagheer, and kept him at Sattara, giving him a house from the pago of the present Raja, and found from his Highness' kitchen, while his Highness remained encamped near the residency; soon after, however, Shaik Meera, fearing the ultimate consequences,

consequences, gave in to the Nattoo, who received from him a bribe of 1,600 rupees, and drove away the boy just alluded to.

7th charge.—Although it had been decided by the British Government that the Ukeel-katkur, who had arrived to the age of maturity, should be put in charge of the affairs of his jagheer, Ballajee Punt Nattoo deceived the young gentleman, that he himself was the cause of this arrangement, and received from him, through Ramchundrow Nimbalkur, the nearly appointed carbharee to the chief, and through Abba Josee already appointed vakeel, some gold ornaments, silver ware and cash, in all to the value of about 15,000 rupees.

8th charge.—Ballajee Punt received a bribe from the Futtunkur Baee, on the occasion of her being allowed to adopt. Although your petitioner cannot now state the precise amount, he will, when the commission opens the inquiry, show the exact sum received by the Nattoo.

9th charge.—Ballajee Punt Nattoo has received, as a bribe, enam land from the Punt Muntree, with 500 rupees for settling certain affairs in his favour.

10th charge.—The ex-Raja had imposed upon Deagurei Muhunt Gossain of Sattara, on account of a certain matter in dispute between him and Aheetwargeer Gossae, a daily mulct, which was progressively increased every day, which amounted to about 7,000 rupees. The Gosae complained of this oppression to the Resident and the British Government, whereupon it was resolved to return the fine; nevertheless, Ballajee Punt Nattoo, before causing the repayment of that sum, exacted from the Gossaeen 1,000 rupees.

11th charge.—Ballajee Punt Nattoo has surreptitiously made himself master of the property of the late Seenaputtee, and recovered for himself certain sums deposited by the deceased in certain quarters. The Nattoo succeeded in committing this villany, by gaining over the Seenaputtee's kharbharees Rowjee Derow and Rowjee Deegambeer, who were well versed in their late master's transactions; and to deter them from revealing it, he procured for them pensions from the present Raja.

12th charge.—Ballajee Punt Nattoo received large sums of money from the Sattara treasury, under the plea of meeting certain expenses said to have been incurred by him, consequent on the late inquiry, which sums have been entered under false headings in his Highness's accounts; and instead of applying the whole of them to the purposes intended, or rendering any account of the sum, he has fraudulently appropriated a great portion of it to his own use, or in other words, transferred it to his own coffers. Though this charge may appear to be very general, your petitioner will, when he is offered an opportunity of doing so before a commission, produce the necessary evidence in support of specific instances.

3. Having mentioned the most serious of the charges of bribing and extortion, your petitioner would now proceed to detail some instances which, if not amounting in the opinion of your honour to undue exactions, may at least serve to show that Ballajee Punt has most shamefully abused his personal influence, to the great detriment of the Sattara state, for the sake of lucre.

1st. Ballajee Punt has induced, if not forced the Raja to give him in enam a certain garden situated at Sattara, and belonging to the late Senaputtee.

2d. He has obtained new enam villages, as is well known to the British Government, from his Highness the present Raja, to the value of 8,000 or 9,000 rupees.

3d. On Appa Sahib Maharaj being raised to the gadde, the Nattoo represented to him that he had made a vow to keep a Chowgura in a temple situated in the village of Patchwar, before granted to him as an enam by the late Raja, and induced his Highness to permit him to keep one, and to give an enam village, worth 1,200 rupees, to cover the charges of the establishment.

4th. The Nattoo has obtained as a gift a varro or house, called Dawlchawarro, situated in the town of Sattara, and additions and improvements were made to it at an expense of about 6,000 rupees; the whole charged to his Highness.

5th. He received a pearl necklace from his Highness's treasury, as a gift; the value of which appears in the Raja's accounts.

6th. He has taken from the Raja's pago, horses for himself and his sons, of the best sort. These animals are at present with the Nattoo; they are valued at about 3,000 rupees.

7th. He has received poshaks from his Highness for himself, his sons, his own wife, his son's wives, his relations, and his attendants and servants, to the value of about 10,000 rupees.

8th. He has received palkee from his Highness, having tassals made of gold lace, and covered with rich kincaub, valued at about 1,000 rupees.

9th. He has obtained koorons in enam from his Highness, for the supply of grass and fuel.

10th. He has taken from his Highness Furoskhano tents and jajams, valued at about 300 rupees.

11th. Whilst Appa Sahib Maharaj remained encamped near the Residency during the late inquiry, all articles of food for himself and his horses were received by Ballajee Punt from his Highness; Ballajee Punt, not satisfied with obtaining immunities for himself, used his influence to get enams, pensions, wurshasun, &c. for his relations, friends and retainers, some of which are as follows:

12th. Abba Josee, a person related to Ballajee Punt Nattoo by marriage ties, and who already received a salary of 100 rupees from the Ukulketkur per mensem, and a pension of 50 rupees from the British Government, has had lately granted to him an additional allowance

ance of 75 rupees from the chief of Ukulkatkur and an enam village, of 2,500 rupees, from the Raja; and his two sons have been provided with a salary of 50 rupees per month from the Raja. The reason of heaping so many immunities upon Abba Josee is, that, through his agency, Ballajee Punt has received large sums of money as bribes, as may be gathered from the 4th and 7th charges, set forth under paragraph 2 of this petition.

13th. Narrain Shastree Thutey, a son-in-law of Ballajee Punt Nattoo's, who resides at Poonah, has had, through his father-in-law's interference, a perpetual wurshasun of 1,250 rupees per annum conferred on him from the Sattara treasury.

14th. Baba Nagarkur, who is now at Poonah, and to a child of whose a grandchild of Ballajee Punt's is married, has had a monthly pension of 50 rupees conferred on him from the Raja's finances.

15th. Ragho Punt Gogtey, an associate of Ballajee Punt Nattoo in playing at sogtees, has a monthly pension of 25 rupees granted him from the same source.

16th. Dhandoo Punt, a karcoon of the Nattoo, has a monthly pension given him of 12½ rupees from his Highness's treasury.

17th. Roajee Furkia, a nephew of Ballajee Punt, has a similar allowance given him.

18th. He has obtained pensions for his jasoods and khizmutgars from the Raja's treasury.

19th. One Narrain Row Deshmaokh Koadalkur owed some money to Ballajee Punt, who, in consequence, obtained for him a monthly salary of 25 rupees from his Highness, and got it transferred to him in liquidation of the debt.

20th. Ballajee Punt had secured for a dancing girl, by name Manee, in his own service, an allowance of 100 rupees per month from the Sattara treasury.

21st. He has employed all his brothers, nephews, and other relations, friends and favourites, in the service of the Sattara state, as if he was himself the chief of that state.

Your honourable Board can ascertain, from the public records, how far, and if at all, the individuals mentioned in the above clauses, 13 and 21, have been serviceable, during the late inquiry at Sattara, to entitle them to the liberality of the Raja.

4. That having thus set forth the principal points impugning the honesty and good faith of Ballajee Punt Nattoo, your petitioner begs most respectfully to observe, that it will be doing a great injustice to the subject, merely to prefer the statement for the report of the Resident; for that officer, who has received so much assistance from the Nattoo, is, as may be naturally expected, much biassed in his favour, and therefore little can be expected from him in tracing the track. He will, in all probability, do no more than declare the whole of the 12 charges set down under paragraph 2 to be fallacious and malicious; and that the circumstance of Ballajee Punt having been concerned in the late inquiry has made him many enemies; for, were the truth of them established, the fact will go to show culpable neglect on his part for having so long taken no trouble to check the system of bribery and corruption passing under his nose. To assert that an accusation is false is a very easy thing, but to prove it to be so, by evidence, is a difficult matter. Your petitioner respectfully submits, whether it will not unbecome the high character of the British Government to refuse to institute a proper inquiry into charges of so criminal a nature, and charges which your petitioner offers to prove by regular evidence. He begs also to remark, that before he became acquainted with the frauds and villanies of Ballajee Punt Nattoo herein detailed, he had been persuaded that the system of bribing and corruption prevailed under the Mahratta government had ceased with the overthrow; to be obliged to arrive at a different conclusion, to wit, that it has continued in all its forms under the British rule. In order, therefore, to clear the high character of your Government, so reflected upon in the eyes of the people of the Sattara state, and to prevent the observations of the public, to which the British representative at his Highness the Raja's court has laid himself open by the conduct of Ballajee Punt, a British subject and pensioner; your honourable Board cannot but deem itself imperatively called upon to adopt energetic measures to sift the matter to its very bottom.

5. In conclusion, your petitioner humbly prays that Government will be pleased, as the only most satisfactory way of arriving at the truth and doing justice to all concerned, is to appoint a commission, composed of three members; the Resident himself, Colonel Robertson, the visiting Judicial Commissioner for the Deccan, or the Agent at Poonah, or any other three gentlemen best versed in the customs and manners of the Mahratta Durbar, to inquire into the several charges preferred against Ballajee Punt Nattoo; when your petitioner will produce in support of them his written evidence and witnesses, who might be examined upon oath. Your petitioner requests that he may be favoured with an intimation on the subject, that he may proceed to Sattara to appear before the commission.

6. Your petitioner trusts that the circumstances of Ballajee Punt having staunch friends, both in the secretariate and the Presidency, will not lead to this representation being treated with indifference; let not, honourable sir, such crimes as bribing and extortion, whoever may be the offender, pass with impunity.

And your Petitioner, &c.,

Bombay, 29 September 1843.

(signed) *Krushnajeo Sudaseo Bhirray.*

(No. 2460 of 1843, Political Department.)

THE Resident at Sattara is requested to report on this petition.

By order, &c.

(signed) *J. P. Willoughby,*  
Secretary to Government.

Bombay Castle, 13 October 1843.

No. 5561.

REPORT from the Resident at Sattara, dated 2 November 1843.

As regards this petition, the Resident begs leave very respectfully to refer Government to his report under date the 28th of July last, as well as to the reply of Government to this petitioner (No. 6 of 1843), under date the 10th of August last, and forwarded to the Resident here for his information, in which the petitioner is informed that the decision of Government communicated to him under date the 3d of June last, in reply to his petition dated the 14th of January last, is final; and that no further petitions on this subject will be received from him.

The Resident begs leave merely to add, that there is nothing new brought forward in the petition now returned; but that these accusations are all equally false and malicious, as those formerly brought forward by this petitioner, and consequently, that this infamous libeller is unworthy of further notice or reply.

(signed) *C. Orans, Lt. Col.,*  
Resident at Sattara.

Sattara District, 2 November 1843.

No. 5562.

MINUTE by the Honourable the Governor, subscribed to by the Honourable Mr. Crawford, dated 13 November 1843.

I do not think any answer should be returned to this petition, and any further representations from this person should be returned by endorsement.

(signed) *G. Arthur.*  
*J. H. Crawford.*

No. 5844.

EXTRACT Bombay Political Consultation, 13 December 1843.

Crustnaje Sadasew Bhidey, of Sattara, in his petition dated the 10th November 1843, reiterates certain complaints against Ballajee Punt Nattoo; *Ordered*, that the petitioner be referred by endorsement to the answer returned to him on the 10th August last.

(No. 3130 of 1843, Political Department).

PETITIONER is referred to the answer returned to him on the 10th August last.

By Order of the honourable the Governor in Council,

(signed) *J. P. Willoughby,*  
Secretary to Government.

Bombay Castle, 9 December 1843.

No. 7040.

EXTRACT Bombay Political Consultation, 4 December 1844.

(No. 149 of 1844.)

From the Agent for Sirdars, in the Deccan, to the Chief Secretary to Government, Bombay, dated Poonah, 19 August 1844.

Sir,

1. Several months ago, I received by the post, a Mahratta paper, of which the enclosed (No. 1) is a translation.

2. As it has been usual for the Agent for Sirdars to communicate with the Government on alleged misconduct by Sirdars, as the mode of inquiry asked for in the present instance by Krishnaje Suddasheo, is that ordered by Government in the case of Dadjee Appajee Seweya, excepting only that the committee on him was a native one, and as Ballajee Punt Nathoo, is not only a sirdar of the second class, and a pensioner of the British Government, "during good behaviour," but is the most favoured of all those who, on the accession of the British Government to the Deccan, were styled "British adherents;" it did not appear right that I should disregard such serious complaints against him, and so earnest an appeal to me, as the Agent of Government in immediate communication with the Sirdars, although those complaints relate to the acts of Ballajee Punt Nathoo when employed in the Sattara country; and I therefore, as a preliminary step, called on Krishnaje Suddasheo to state the grounds on which he preferred these charges of extortion, fraud and abuse of authority.

3. The enclosure No. 2 is the answer he has brought me, in which he has introduced two additional charges against Ballajee Punt Nathoo, as well as matter relating to the Resident at Sattara; and I feel that I only perform my duty in laying both papers before the honourable the Governor in Council.

4. As,

4. As, however, it would be most unjust to the Resident and Ballajee Punt Nathoo to allow Krishnaje Suddasheo Bheeday to prefer these accusations without confirming such facts as are within his own knowledge, by legal solemn affirmation, and placing himself within the jurisdiction of a British court, empowered to punish him for defamation; I have taken the solemn affirmation of which the Enclosure No. 3 is a translation, and obtained from him security to the amount of 1,000 rupees, besides his personal recognizance to the amount of 5,000 rupees for his appearance at Poonah, till the inquiry which may be ordered shall have been completed.

I have, &c.  
(signed) J. Warden,  
Agent.

Agent's Office, Poonah, 19 August 1844.

(1.)

TRANSLATION of a Mahratta Letter addressed by Krishnaje Suddasheo Bheeday to John Warden, Esq., Agent for Sirdars, dated 14 October 1843.

(After compliments.)

I BEG to bring to your notice, that Ballajee Narrain Nathoo, an enamdar under your jurisdiction, a pensioner of Government and member of the second class of privileged Sirdars, has abused the trust reposed in him by fraudulent acts, which are detailed below, and for the due investigation of which I beg that you will address Government, and convene a commission, composed of three or four English gentlemen, in order that an inquiry may be instituted, when I shall be enabled to produce satisfactory evidence in support of the same.

During the prosecution of inquiries against the ex-Raja of Sattara, Nathoo was in the habit of transacting business for Colonel Ovens, the Resident at Sattara. Subsequently, however, on the accession of Appa Sahib to the throne, Ballajee Punt, by fabrications and intimidations in the name of the "Sahib," extorted lacs of rupees as bribes in the business of the jageerdars, enamdars, &c., and obtained various grants of enam villages, lands, &c. to any extent he desired, which is not consistent with the honour of the British Government. Although an agreement was made to pay me a sum of 1,250 rupees, as remuneration for my services, Nathoo only paid me a sum of 150 rupees, and appropriated the remainder. Nathoo's villages are situated within your jurisdiction, and he holds sunnuds from Government for the administration of civil and criminal justice, but his habits of extorting bribes, &c. being made known, it will be for you to determine whether he should be allowed to continue in the possession of his sunnuds or not.

1. The British Government was benevolently pleased to restore the jageer of the Punt Suchoo, and this fact is so notorious, that it is quite ridiculous to attribute the restoration of this estate to Ballajee Punt Nathoo. Such being the case, Nathoo, availing himself of the opportunity which the minority of the Punt Suchoo afforded him, told his mother, "That but for him the British Government would never have restored their jageer." After he had informed them to the foregoing effect, Nathoo entered into a league with one Bujjabbah Sheenkur, the manager of the Suchoo, and demanded the payment of a lac of rupees, but as it was impossible at the time to comply with this demand, Nathoo suggested the plan of paying a moiety of the amount in ready cash, and executing deeds for the remainder, in which they were required to acknowledge the amount as a debt. Ballajee Punt accordingly obtained the deeds regarding the bribe, speaking of the amount as a debt, to be liquidated by annual instalments. After having created this pretence of a debt, he, with the view to impose on the public, opened a false and designed "jummah khurch" account in his own house, furnished a fictitious "tallaybund" account to the Resident, and by the burdening the Punt Suchoo with an unfounded debt of about 80,000 rupees, he (Nathoo) is now enjoying the interest and recovering the principal. He has, moreover, extorted two villages, as enams for himself.

2. The palace of the Punt Amatya, which is situated at Sattara, together with his other surinjamee enam villages, had been resumed by the ex-Raja, but after his departure, Nathoo, with the view to cause their restoration, obtained an agreement for the payment of a sum of 8,000 rupees in the name of his favourite Ragho Punt Gogutay, and received about a moiety of the amount. He also got for Gogutay an enamee grant of land of the value of 200 rupees per annum, from the Punt Amatya.

3. The Khuwaskhanee Umuls of Gungah Baee Dufflay had been formerly resumed by the ex-Raja, and was afterwards restored to her by the Resident. At this time, Nathoo, by entering into an agreement with Bappoo Nisbuth Khuwaskhana for the payment of a sum of 10,000 rupees for his exertions in effecting the restoration, received a moiety of the amount; but the other half of the money not having been paid, and the Khuwaskhana Baee having in the meantime departed this life, the whole of her property was confiscated; and as Nathoo was incensed against Bappoo, in consequence of his failure to pay him the other moiety of the above money, he, actuated by that feeling sent a secret intimation to the manager of the Juthkureen Dufflay Baee, who, breaking open the locks of Bappoo's house, seized the whole of the property, took away the ready cash, jewellery, and all the papers and documents, &c.

4. Although Ramchunder Row Dufflay had never been in possession of certain six villages for the last 75 or 80 years, yet Nathoo, after promising to effect their restoration, entered into an agreement for the payment of a certain sum of money, through the medium

of one Abbah Joshee, who is a relation of Nathoo; and after having misrepresented matters to the Resident, he caused the six villages to be restored to the Dufflay, and then by making over those very villages in mortgage to a certain sowcar, he took 16,000 rupees.

5. Bhageerthee Bae Dufflay Juthkureen was anxious to adopt a son, and the rules of the British Government enjoin that the nearest of kin should be adopted, and under this pretence Nathoo brought the boy, and was endeavouring to effect a settlement; but as the amount could not be agreed on according to Nattoo's wishes, and as the Bae was anxious to adopt another boy, she agreed to pay Nathoo whatever amount he might demand. After having effected the negotiation through Raghoe Punt and Say gurkur Vukeel, the adoption was sanctioned, and as remuneration for this business he took a sum of 15,000 rupees.

6. As Sheik Khan Meerah Waekur would not succumb to Nathoo, he endeavoured to alienate his jageer to a boy, who was stated by him to be the brother of Sheik Meerah; Nathoo was thus endeavouring to effect a settlement on behalf of the boy, who was, in consequence retained in his Highness the Raja's camp, and allowed the use of the pangah horses and a free meal with the Raja, when Sheik Meerah was obliged to submit to Nathoo, who extorted a sum of 1,600 rupees from him, and discarded the boy.

7. It was originally determined by the British Government, that when the chief of Akulcote should have attained his majority, he should undertake the administration of his estate; such being the case, Nathoo deceived him by telling him that it was he who was going to invest him with the administration of his own affairs; and nominating Ramchunder Row Nimbalkur as the Akulcotekur's manager, and one Abbah Joshee as the vukeel; through their influence Nathoo extorted gold and silver plate, together with ready cash to the extent of about 15,000 rupees.

8. The privilege of adoption having been conceded to the Phultunkur Bae, Nathoo, on that occasion, extorted a sum of money, but the amount was not specified; it shall, however, be proved at the inquiry which may hereafter be instituted by yourself and the commission.

9. In the settlement of the Punt Muntree's affairs, Nathoo received an enamee grant of land of the value of 500 rupees per annum.

10. His highness the ex-Raja, having ordered the payment of a "churtah raj," or "daily allowance," by one Deogheer Munt Gosavee, on account of a suit between him and one Jetwargeer Gosavee, a sum of 7,000 rupees was levied from him on this account. After petitioning both the Government and the Resident for the repayment of the above sum, an order was received for the repayment of the amount, and out of this sum Nathoo reserved 1,000 rupees for himself, and paid the remainder to the owner.

11. Nathoo having concealed the property of the late Sennaputty, misappropriated it for his own benefit. The Sennaputty had also many deposits of cash with individuals, and as the managers of the Sennaputty, by name, Rowjee Deo Row and Rowjee Deegambur, were aware of this fact, Nathoo, by entering into a conspiracy with them, took the whole of these deposits, and in order that these managers might not disclose the affair, he provided them with pensions from the present Raja.

12. Nathoo, by imposing on the present Raja, under the false plea of his having incurred heavy expenses during the investigation into the conduct of the ex-Raja, succeeded in extorting large sums of money from the public treasury at Sattara, and without specifying the particular expenditure he had incurred, he appropriated the greater part of these sums to his own use, and caused the Raja to open fictitious "jummah khurch" accounts in his dufurs. I have indefinitely stated this circumstance, but when yourself and the commission shall undertake the inquiry of the matter, the whole of these points shall be satisfactorily substantiated.

The foregoing twelve paragraphs contain a detail of the manner in which Nathoo has extorted bribes, &c., and when an inquiry into these points shall have been undertaken by yourself and the commission, it will become clearly evident that Nathoo, exclusive of the foregoing points, has, by means of the trust reposed in him, enriched his own house, without attending either to the interest of the Sattara state, or to the comfort and happiness of the ryots.

It will also be observed, on a reference to the public records of Government, whether any of Nathoo's relations and friends have, in any manner whatever, been useful in the affairs of the state; yet these very individuals have all been very handsomely provided with enam lands, wurshasuns, pensions and other important situations. A detail of their names will be given in a general statement, which shall hereafter be presented, and from which you will become satisfied as to the truth of these allegations. Should these circumstances be brought to the notice of the Resident, as Nathoo is much favoured by him, this matter would not be inquired into. Should you, however, refer to the Resident on the subject of the present allegations, he would answer, that they are all false and malicious accusations, and emanating from Nathoo's having been greatly concerned in state affairs, which has rendered him obnoxious to many. To this effect the Resident would return a plausible untrue (mutulubee khota) report, and this, because in the event of these allegations being established against Nathoo, he having been attached to the Resident, and in the practice of corruption and irregularities from which he was not restrained, great negligence would be ascribed to the Resident; and it is therefore necessary to the Resident to exonerate Nathoo from all blame, and it is not difficult to declare accusations false; but it would be a difficult matter to establish such declaration by evidence.

Prior to my having acquired a knowledge of Nathoo's dishonesty and malpractices, I entertained an opinion, that it was generally usual, during the time of the Paishwa's government, to extort bribes, &c., but that all such practices had ceased on the subversion of that government.



government. The fact, however, appears to be otherwise, and it is quite evident that similar malpractices still prevail during the British administration.

It is generally considered by all those who compose the Durbar of his Highness the Raja of Sattara, that owing to the dishonest course pursued by Nathoo, discredit attaches to the Resident, and the honour of the British Government is tarnished.

Actuated by these considerations, and Ballajee Punt Nathoo being a subject of your jurisdiction, I have thought proper to bring the matter to your notice, and trust that an inquiry may be made without the knowledge of Nathoo, and that I may be favoured with a communication on the subject.

During the prosecution of the inquiries into the charge of treason brought forward against the ex-Raja, Prutab Sheo, my deposition, &c., were taken by the Resident, and the testimony I then gave I now confirm as true; that I was a man of high character and respectability must have been communicated to Government at that time, but in consequence of my having now complained against Nathoo, I hear that the Resident says I am not a good man. There is, however, nothing extraordinary in this, because when the inquiry shall have been completed, and these allegations fully established against Nathoo, the Resident will be blamed. It is, therefore, necessary that you should make a report to Government on the subject of this complaint. I am at present in Bombay, and having heard that Ballajee Punt Nathoo is a subject of your jurisdiction, and that, according to regulation, all complaints against him should be made through you, I have addressed you.

(True translation.)

(signed) J. Warden, Agent.

(2.)

TRANSLATION of a Mahratta Memorandum, showing in detail the Evidence applicable to the several allegations brought against Ballajee Narrain Nathoo, by Krishnaje Suddasheo Bheeday, in his memorandum of the 14th October 1843.

1st. Proofs regarding the cash extorted from the Punt Sucheo.

1. The ex-Raja was formerly in the habit of levying a sum of 15,000 rupees per annum from the Punt Sucheo, for supporting the expenses of elephant establishment, but which was subsequently, on the accession of the present Raja, remitted in A. D. 1839. Nathoo, however, received on this account a sum of 30,000 rupees, being the allowance for two years. The proofs in support of this item are as follow; viz.—

- 1 The private "jumma khurch," accounts of the Punt Sucheo, commencing from the year A.D. 1839 to the year A.D. 1843, being for five years, should be called for.
- 1 Nathoo, without lending any money to the Punt Sucheo, has obtained deeds, the interest whereof, at the rate of 2,000 rupees per annum, is received by Nathoo. In support of this statement, the Sucheo's accounts for the above-mentioned five years should be referred to.
- 1 Nathoo also receives an annual sum of 300 rupees, on account of "Shellah and Turleand," from the Sucheo. The proof in support of this item is the aforesaid accounts.
- 1 Two Khandies of Ambaymoorree are annually given to Nathoo, which will also be evident on reference to the above accounts.
- 1 Nathoo is in the possession of two villages, which yield a revenue of 2,000 rupees per annum. In proof of this item, the accounts of the Sucheo's duftur should be called for. Besides these two villages, Nathoo enjoys another, of which only he apprized the Resident; but he is in the actual possession of three villages.

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In support of the foregoing five items, the following persons are the witnesses; viz.—

- 1 Rungoe Keshow Soobadar of the Kusbah of Sheerwul; not employed at present; resides at Sheerwul.
- 1 Rowjee Soobadar, the uncle of the Sucheo; resides at the village of Bhore.
- 1 Dada Phudnees, manager of the Sucheo, who is at the village of Bhore.
- 1 Appa, manager of the Sucheo, the natural father of the present Punt Sucheo, who resides at the village of Bhore.
- 1 Bhickajee Krishu, vukeel of the Sucheo, who used to be at Sattara, and is now at the village of Bhore.
- 1 The carcoon in charge of the Punt Sucheo's treasury.

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2d. The village of Ram Rao Surootum Amatya had been, during the reign of the ex-Raja, held under sequestration. Nathoo, after the accession of the present Raja, caused the restoration of these villages to the Ammatya, and as remuneration for his exertions, obtained an agreement for the payment of a sum of 6,000 rupees. But as the Ammatya was unable to pay this sum, Nathoo, by interesting himself in the settlement of an old demand of one Babboorow Pundit against the Ammatya, caused the latter to execute a fresh deed to the Pundit, and for which he received a sum of 4,000 rupees from the Pundit. The village that was restored to the Ammatya is Churragaon, pettah Kurrand. This village was assigned in mortgage to the Pundit, and a sum of 6,000 rupees obtained on it. The total amount thus received by Nathoo in this transaction is 10,000 rupees.

The following are the witnesses on the subject; viz.—

- 1 Ragho Punt Gogutay, a dependant of Nathoo; he is now at Sattara. All the agreements respecting this transaction were negotiated through the medium of this individual.
- 1 Babboorow Pundit, and his private cash accounts for the month of Mang Shukay 1761.
- 1 Ram Rao Surootum Ammatya.

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The above is a detail of the proofs applicable to this item. When this circumstance came to the notice of the Raja, he caused the Pundit to restore the village to the Ammatya. But the inquiry was not concluded; some of the depositions which were then taken exist in the durbar of his Highness. The cause of the inquiry not being concluded is the intimacy which subsisted between the Resident and Nathoo.

3d. The Wuttun of Gunga Bae Dufflee Khuwas Khan was resumed by the ex-Raja, and subsequently restored by the present Raja. In this affair, Nathoo obtained an agreement for the payment of 10,000 rupees, out of which he received 5,000 rupees. The following persons are the witnesses; viz.—

- 1 The late Gunga Bae Dufflee.
- 1 Bappoo, the manager of the Khuwas Khan, now at Sattara.
- 1 Casseepunt Bundray, who resides at Maholee.
- 1 Bajee Appa, carcoon of Bappoo Khuwas Khan at Sattara.

4. Ramchunder Row Dufflay is a distant relation of Bhageertee Bae Dufflay Juthkurren, and although he had formerly no possessions, Nathoo, after the accession of the present Raja, caused the Bae to make over six villages to Ramchunder Row. As remuneration for this service, Nathoo obtained an agreement for the payment of 16,000 rupees; but as Ramchunder Row was unable to pay the money, Nathoo made over these villages in mortgage to one Gopall Row Kannaday, and obtained the money.

In support of this circumstances, the following persons are witnesses, viz.—

- 1 Ramchunder Row Dufflay of Sattara.
- 1 Gopall Rao Kannaray, a dependant of the Raja, who is at Sattara.
- 1 Abba Joshee, a relation of Nathoo, who is now at Sattara.
- 1 Bageerthee Bae Dufflay, a jageerdar of Juthkurren.

5. The jagheer of Bhageerthee Bae had been resumed by the ex-Raja; but it was afterwards restored to her by the present Raja, who was further pleased to allow her an adopted son. In this case Nathoo extorted a sum of 15,000 rupees.

The undermentioned persons are witnesses to the fact, viz.—

- 1 Bhageerthee Bae Dufflay of Juth.
- 1 Bappoo, a dependant of Khuwas Khan, vukeel at Sattara.
- 1 Ragho Punt Wussusudaykur at Sattara.
- 1 Munnohar Punt, late vukeel at Sattara.
- 1 Doodow Punt at Khannapoor-elaka, Sattara.

An inquiry was pending regarding the above subject before His Highness the Raja; but owing to the Resident being partial to Nathoo, the inquiry was not concluded.

6th. Sheik Meerah Waekur had incurred the displeasure of both the Resident and His Highness the Raja; Nathoo, with the view to a reconciliation, as also to nullify the claim of a certain person whom he had instigated to come forward as the brother of Sheik Meerah, extorted a sum of 1,600 rupees.

The following persons are the witnesses, viz.—

- 1 Sheik Meerah Waekur, now in Poonah.
- 1 The vukeel of this Sirdar, who is at Sattara. I do not know his name, but I can point him out.

7th. Ramchunder

7th. Ramchunder Row Nimbalkur was nominated a manager to the Chief of Akulkote, and from whom Nathoo extorted a sum of 15,000 rupees. The proofs regarding this are as follow ; viz.

- 1 Ramchunder Row Nimbalkur, an inhabitant of Akulkote.
- 1 Khundoba Naik Chattee, an inhabitant of Sholapoor. Into this person's shop the money was paid by Ram Bulwunt, the carcoon of the Nimbalkur.
- 1 Gokuldass Sowcar of Poonah, to whom the aforesaid Chatty remitted the money by bill of exchange.
- 1 Ram Rao Bulwunt of Indapoor.
- 1 The accounts of both the Chattee and Gokooldass should be obtained and examined, when they will prove that Nathoo received the money.

8th. Bae Nimbalkurreen, jagheerदार of Phultun (I do not know her name). Her jagheer was sequestered during the reign of the ex-Raja ; but was subsequently restored by the present Raja, who also granted her an adoption, for which Nathoo received cash from the Bae ; and the following are the witnesses ; viz.

- 1 Vishnoo Punt Putkee, a dependant of the wukeel at Sattara.
- 2 The two sons of Jotepunt Rowjee, a dependant of his Highness. These two men are the carbarees of the Bae at Phultun.
- 1 Nimbalkurreen Bae in person.

9th. The villages of the Punt Muntree of Islampoor had been resumed during the reign of the ex-Raja, but were subsequently restored by the present Raja. In effecting this, Nathoo got enam land of the value of 500 rupees per annum ; and the following persons are the witnesses ; namely,

- 1 The Punt Muntree in person, who resides at Islampoor.
- 1 Gunput Row Goonay, the wukeel, who resides at Sattara.

10th. The ex-Raja levied a sum of about 6,000 rupees from Deogheer Munt Gosavee on account of "churtee bhutta," or daily extra allowance, but the present Raja returned this sum to the Gosavee. In this case Nathoo took a sum of 1,000 rupees ; and the following are the witnesses on the subject ; viz.

- 1 Axjoongeer, the disciple of the late Deogheer Gosavee, who is at Sattara.
- 1 Mohungeer, who resides at Sattara.
- 1 The wuhiee or accounts of the aforesaid Gosavee.

11th. After the arrest and departure of Ballah Sahib Sennaputtee, with his Highness the ex-Raja, Nathoo made away with the Sennaputty's property and cash deposits. The following persons are the witnesses ; viz.

- 1 Rowjee Deo Rao, the late manager of the Sennaputty, who is at Sattara.
- 1 Rowjee Degumbur, now at Sattara.

12th. Regarding the cash, &c. which Ballajee Punt Nathoo took away from the Mharaj Surkar, or the Raja's state property ; namely,

1. All the expenses which had been incurred on account of "raj kaurun," or "for purposes of state," were recovered by the Resident from his Highness the present Raja ; such being the case, Nathoo, under the plea of having incurred expenses himself, took a sum of 30,000 rupees.
2. The present Raja having removed to the neighbourhood of the Residency, Nathoo obtained a fictitious deed from him in favour of a sowcar for a lack of rupees, and afterwards recovered the money from the Raja.
3. Nathoo, without lending any thing to his Highness, took a deed in his own name for the sum of one lack of rupees ; and, subsequently, on the accession of his Highness to the throne, he recovered a sum of 60,000 rupees, but not the balance of 40,000 rupees. Nathoo is in possession of the Raja's wadah, or palace, and although his Highness has been requesting him to vacate and relinquish it, yet Nathoo refuses to do so, until the balance of 40,000 rupees shall be paid to him.
4. Nathoo undertook the construction of the following three grand buildings ; namely, a Julmundeer, the Mundup of the Deity and a bridge. And while carrying on these works, he embezzled and appropriated for his own benefit a sum of 80,000 rupees out of the sum allowed for their construction.

Proofs regarding this are as follow ; namely,

- 1 Bujjabah Purradkur, late Dewan, residing at Kurrand.
- 1 Eshwunt Row Bhow, the present manager, residing at Sattara.
- 1 Abba Shelgaomkur, residing at Shelgaom, in the Sattara country.
- 1 Succaram Punt Venchlay Kurr, private carcoon of his Highness.
- 1 Succaram Nanna Furnavees of Sattara.
- 1 The "jumma khurch" accounts of his Highness, from the year A. D. 1839 to 1843.

Besides the foregoing, the following two items are applicable to the Resident of Sattara; namely,

1. The Resident represented to his Highness that, as the case of the ex-Raja was pending before the authorities in England, it was necessary that counsel should be nominated on behalf of his Highness, and on this plea, he got his Highness to consent to the payment of a sum of 1,500 rupees per mensem to his (the Resident's) father-in-law; on whose death, he caused the payment to be continued to his brother-in-law, who receives it to this day.

1. At the time the Resident's lady and children proceeded to England, gold bullion and Venetian necklaces were purchased and given to the Resident to the value of 50,000 rupees.

The witnesses on the subject are as follow; namely,

- 1 Eswunt Rao Phoujdar, the present Dewan of his Highness.
- 1 Succaram Punt Mhajunna, residing at Sattara.
- 1 Wassoodeo Punt Mhajunnee, a resident of Sattara.

Besides the foregoing, the following are items which have lately been discovered against Nathoo; viz.

1st. Bhawunchkur Sowcar, of Punderpoor, under the pretence of having become a bankrupt, falsely gave out that 240,000 rupees had been stolen from him. In the inquiry into this matter, Nathoo, with a view to establish it, received a sum of about 6,000 rupees. The following persons are witnesses to this; viz.

- 1 Babboorow Shettay Dullal, of Punderpoor.
- 1 Hurba Caseekur, of Punderpoor.
- 1 Bawunchkur Sowcar.

Some of the papers connected with this transaction, which were found, exist in the durbar of his Highness; but owing to the influence of the Resident, the inquiry has not been prosecuted.

2d. On the first occasion that his Highness went on a visit to Kolapoor, Nathoo, on the plea of an advance to the Kolapoor Raja, got his Highness to advance him a sum of 50,000 rupees, but which sum he (Nathoo), without paying to the Raja, appropriated for his own benefit. The under-mentioned persons are witnesses to this fact; viz.

- 1 His Highness the Rajah.
- 1 Eswunt Rao Dewan.

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The foregoing is a detail of the various proofs and evidences. All which it is earnestly requested may be called for and brought to Poonah, and an inquiry instituted. The Resident being at Sattara, if the inquiry were to be carried on there, fear would prevent every one from speaking the truth. Petitioner, therefore, begs that the inquiry may be made either at Poonah, or the Resident being absent, at Sattara, when the Government will become fully satisfied as to the truth of the whole of the allegations.

(signed) *Krishnajeo Suddasheo Bheeday.*

(True Translation.)

(signed) *John Warden, Agent.*

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(3.)

*Krishnajeo Suddasheo Bheeday*, aged 40 years, a Concunust Brahmin, by occupation a carcoon, inhabitant of Sattara, solemnly affirms before the agent for Sirdars at Poonah, as follows:

Of the matter contained in a petition dated 14th October 1843, and a memorandum, dated 19th June 1844, and presented by me to the Agent for Sirdars, I speak of my own personal knowledge on the following points, which I solemnly affirm to be true.

1. Govind Rao Dewan's mother, Geerza Bae, passed a written instrument to me, that I should make known to the Government the information against Preetap Singh Maharaj and his associates, and receive for the same, 1,250 rupees; this agreement I gave to Ballajee Punt Nathoo, in the presence of Abba Joshee, and the former gave it to the Resident in my presence, and the Resident and Ballajee Punt Nathoo said they would give me the said reward, and took from me the paper of information I brought; and this grant of such reward to me is noted, as I have heard, in the report of the case sent to England. Of this, I passed one receipt for 100 rupees, and another for 50 rupees, to Ballajee Punt Nathoo, which is all received: he promised the balance, and detained me on batta twenty months, and after

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all did not pay me the balance. The twelve papers alluded to, my affidavit, the receipts, &c. are with the Resident, and if sent for, will explain every thing. If they paid me 1,250 rupees, as there are receipts for 150 rupees, so there will be for the balance.

2. I have seen some of the accounts of the Punt Sucheo, with entries in the name of Ballajee Punt, to which I allude, and will prove my assertions through them and the depositions of his managers. The two villages, fraudulently taken by Nathoo, are in the purgunnahs of Moosekhore and Mootekhore.

3. The entry of 6,000 rupees, in the accounts of Babbao Row Pundit, to the debit of Ram Row Survotum Ammatya, I have seen, and I will prove by witnesses, that Ballajee Punt Nathoo got the money.

4. I have seen the entry of 16,000 rupees in the accounts of Gopal Row Kamaday, to the debit of Ramchundur Rao Duffe, and I will prove by witnesses, that Ballajee Punt Nathoo got this money.

5. I have seen the entry in the accounts of the Punt Muntre of 500 rupees to the debit of Ballajee Punt Nathoo; let them be brought.

6. The remainder of the information brought forward by me, I will prove by documentary and oral evidence, and hold myself liable for a failure therein, provided the Resident do not remain at Sattara pending the inquiry.

(True translation.)

(signed) *John Warden, Agent.*

MINUTE by the Honourable the Governor, dated 21 November 1844.

No. 7041.

1. I FIND the following information on our records regarding Crustnajee Sudeasew Bheeray, the person who now prefers charges of bribery and corruption against Colonel Ovans, the Resident at Sattara, and Ballajee Punt Nathoo. It is essential to consider this before we decide whether any and what weight is due to these charges, and how we should dispose of Crustnajee's present petition.

2. On the 22d of December 1842, Crustnajee forwarded a petition to Government, representing, that in consideration of certain information which he had afforded respecting a petition which had been addressed to Government on the 13th of December 1836, by Geerja Bhaee, on behalf of her son Govind Row Wittul, then in confinement at Poonah for having been concerned in the intrigues of the ex-Raja of Sattara, Colonel Ovans and Ballajee Punt Nathoo, had promised him a pension (no amount being specified by the petitioner), and had made themselves responsible for the payment of the sum of 1,250 rupees, "the amount of the reward for which Geerja Bhaee had passed a writing to him." He further represented, that of this sum he had only received 150 rupees, and in addition thereto subsistence money, at the same rate as was allowed to other witnesses. He insinuated that Ballajee Punt had appropriated the money promised to him by Geerja Bhaee to his own use; but it is worthy of remark, that at this time he makes no charge against Ballajee Punt of having suborned him to give false evidence in the Raja of Sattara's case; on the contrary, his petition is thus prefaced, "I beg to represent that as Govind Row Dewan was put into custody on account of the political proceedings of the ex-Raja of Sattara, his mother, Geerja Bhaee, the widow of Wittul Bullal Mahajun, sent Luximon Punt Bhagvut to me, and caused a representation of her circumstances to be laid through me before Government, in consequence of which Abba Josee took me to Ballajee Punt Dada Nathoo," &c. &c.

3. This petition was, on the 7th of January 1843, referred for the report of the Resident at Sattara, and on the 7th of the following month Colonel Ovans stated, that as regarded the sum of 1,250 rupees "he knew nothing, and that it was clear the British Government had nothing to do with it;" for if any claim existed, by the petitioner's own showing, it was against Geerja Bhaee, and should be brought forward in the courts of law at Sattara, or by petition to the Raja. As regarded the pension, the Resident reported the claim to be "perfectly groundless." "This witness," observed Colonel Ovans, "came voluntarily forward; he was brought to me like any other witness; I took his deposition, and forwarded the same to Government; his travelling expenses were paid, and he was allowed subsistence money like all the other witnesses who were examined and detained here; but beyond this he never has had, nor has he now, any claim whatever, either on the British or Sattara Government. No promise of any reward in any shape whatever was ever made to him by me; on the contrary, he was distinctly told from the first that I would not interfere regarding his claim on Geerja Bhaee, and I never did interfere to enforce it, or otherwise." With his report, the Resident submitted a statement from Ballajee Punt Nathoo, denying the truth of petitioner's allegations against him, in respect to which Colonel Ovans remarked, "I can myself confirm the correctness of this statement."

4. Government having taken the petition, and the Resident's report thereon, into consideration on the 6th of April 1843, resolved that the case was not one with which the British Government should interfere, and on the same date an intimation to this effect was made to the Resident and to the petitioner.

5. The following extract from Colonel Ovan's report to Government, dated the 15th of August 1838, submitting certain documents which he had obtained from Crustnajee Sudeasew, establishing

establishing the authenticity of a petition which Geerja Bhaee had forwarded by post to Government, explains the nature of his testimony in regard to Geerja Bhaee's petition.

"The anxiety evinced to falsify Geerja Bhaee's original urzee (petition), is a clear proof of the importance of that document, and although its authenticity was formerly placed beyond doubt, yet as one point remained to be cleared up, viz. as to the person said to be the writer of it, I have now the honour to submit translations of certain papers, as noted in the accompanying list, which will, I think, be found conclusive on this point; also, to enable Government fully to judge of the weight of this evidence, I beg to mention, that Crustnajee Sudasew Bheery, the person who is now proved to be the writer of Geerja Bhaee's petition, came to Sattara as far back as September last, to claim the promised reward, and he was then brought to me and made the statement No. 4, and produced the papers described as Nos. 1, 2, 3, 4, 5, 6 and 7, in the answer to the question which will be found at the end of his statement."

6. Before the intimation mentioned in paragraph 4 of this minute was made to the petitioner, he had submitted on the 4th January 1843, another petition reiterating his claim to a pension, and to payment of the balance of 1,250 rupees, the amount promised to him by Geerja Bhaee. This was, on the 28th March, forwarded for the remarks of Lieutenant-colonel Hickes, then in temporary charge of the Sattara Residency, and was replied to by Colonel Ovans on the 22d April following, to the effect that, as this second petition contained no new matter requiring reply, he begged to refer to his report on the first petition alluded to in the 3d paragraph of this minute. The Resident at the same time reported that Geerja Bhaee, the mother of Govind Rao, had died at the village of Mahowlee, near Sattara, on the 3d April 1843. Crustnajee Sudasew was therefore informed\* that the decision of Government on his case, as communicated to him on the 6th April 1843, was final; to which effect Colonel Ovans was also informed under the same date.

\* Chief Secretary  
Reid's letter, dated  
3 June 1843.

7. The petitioner having thus, as it were, been nonsuited, on the 29th June 1843 when I was on a tour in the Deccan, presented me a petition, charging Ballajee Punt Nathoo with having received bribes from the jagheerdars and ryots, during the inquiry into the conduct of the ex-Raja of Sattara. This was referred to the Resident at Sattara, and was reported on by that officer on the 23d July 1843. In his report, after referring to Crustnajee's previous petitions, and to their having been proved false, Colonel Ovans observed, "Actuated, however, by malicious feelings, this individual now brings forward a string of accusations in his own name, unsupported by one particle of evidence, against Ballajee Punt Nathoo, with a request that Government will cause an inquiry to be instituted; as regards this, I can bear witness from my own personal knowledge of these transactions, that these accusations are entirely false and groundless, and that they are evidently made only with a view of injuring the character of one of the most respectable natives of rank in this country. On looking also at these accusations made by so worthless a character as this petitioner, it will be naturally asked, who has authorized him to stand forward as a public spy and accuser. Have the jagheerdars, who are stated to be the sufferers, authorized him to use their names? If they or any other person mentioned in this petition are aggrieved, why do not they themselves stand forward? No person, high or low, is denied access either to his Highness the Raja, or to myself. I see every petition, and hear every complaint every morning myself, and Ballajee Punt Nathoo does not now himself reside in Sattara, nor is he employed or consulted by the Raja on public affairs, so that his presence or influence cannot be adduced as a reason for any party, who may be sufferers, not coming forward to complain. But so far from there being any complaints against this upright and honest man, I am most thankful to avail myself of this opportunity of putting on record, that the jagheerdars are one and all most grateful to Ballajee Punt Nathoo, for his conduct towards them, and have often assured me that in all their troubles, both during the Paishwa's government and our own, he has befriended and preserved them; and as Mr. Elphinstone relied with the most entire confidence on Ballajee Punt Nathoo's local experience in the settlement of this country in 1818-19, many of them well know, it is to him they owe their present position and wealth." In conclusion Colonel Ovans stated that there was "some reason to believe that this petition is the result of some low intrigue at Sattara, and suggested that he should be allowed to communicate the matter to the Raja, that his Highness might adopt such measures against the petitioner as might seem just and expedient."

8. On the 10th August 1843, Crustnajee Bheday was referred to the answer returned to his former petition, that that answer was final; and that no further petitions on the subject would be received from him.

9. On the 13th August he presented another petition, which as it contained no new matter was, in conformity with the above resolution, filed.

10. On the 29th September, another petition was received by Government, in which Crustnajee Bheday reiterated his former charges, and preferred additional accusations against Ballajee Punt. This was referred to the Resident at Sattara on the 13th October, who on the 2d of the following month, after referring to the former petitions, with his reports, and the decision of Government thereon, observed, "The Resident begs leave merely to add, that there is nothing new brought forward in the petition now returned; but that these accusations are all equally false and malicious, as those formerly brought forward by this petitioner, and consequently that this infamous libeller is unworthy of further notice or reply;" on the receipt of this report, Government resolved not to return any reply to the petition, and ordered that any further representations from the petitioner should be returned to him by endorsement.

endorsement. In conformity with this resolution, two further petitions were returned, on the 9th December 1843.

11. On referring to statement No. 1, accompanying Mr. Warden's letter of the 19th August last, and comparing it with those previously received direct by Government, it will be observed that the present charges are identical with those which have been already declared to be false and libellous by the Resident at Sattara. It will also be observed, that the accuser, in support of his charges, refers chiefly to persons residing in the Sattara territory, and consequently beyond our jurisdiction. Further, that the acts charged were committed in a foreign jurisdiction, and at a time when Ballajee Punt Nathoo was not in the service of the British Government. These are all facts which require to be considered before we determine how the case shall be dealt with; for if we have not jurisdiction, and do not possess the power of enforcing the attendance of witnesses, and punishing them for perjury, it would be vain to go into the inquiry, even if we had strong *primâ facie* grounds for believing in the truth of the petitioner's statements, which, looking at the nature of his first complaint, I do not think is the case; for it should be borne in mind that Krishnajee Bhiday's first petition was against the mother of Govind Row Dewan; and that this having been rejected by Government, he then commenced his present accusations.

12. But what in my opinion greatly adds to his discredit, he now for the first time prefers charges of personal bribery and corruption against Colonel Ovanshimself. 1st. That he has obtained from the Raja of Sattara payment of the sum of 1,500 rupees per mensem to his (the Resident's) father-in-law, which, on his death, was transferred to his (the Resident's) brother-in-law, who receives it to this day. 2dly. That when the Resident's lady and children proceeded to England, gold bullion and Venetian necklaces were purchased and given to the Resident, to the value of 50,000 rupees. To prove these charges, the petitioner names three witnesses, one of whom is the Raja's present minister.

13. Since my arrival in this Presidency, it has been my duty, as opportunities have incidentally presented, to satisfy myself, as well by observation as personal inquiry, respecting the bearing and public reputation of all the honourable Company's servants, especially of those holding office of high trust and responsibility; and had I been called upon to name officers universally well-spoken of and esteemed, I should certainly have included Colonel Ovans in the number; and this must have been the opinion formed by the late Commander-in-Chief, for on Sir R. Grant's requesting Lord Keane to name an able and judicious officer to hold the appointment of Resident of Sattara, he recommended his Quartermaster-general, Colonel Ovans.

14. These charges being now, at the eleventh hour, added to those previously urged against Ballajee Punt Nathoo, confirm my distrust in the petitioner's statements, and strengthen the belief that petitioner is merely a tool in the hands of others; namely, the party who have been displaced from power by the deposal of the ex-Raja of Sattara.

15. The question, however, now remains to be decided, in regard to how the present petition should be disposed of. Shall Government adhere to its former resolution, and summarily dismiss the present complaints, or shall we again refer them to the Resident for report, or in any other way institute inquiry? This is full of difficulty; for while on the one hand Government must ever be most ready to investigate charges of bribery and dishonesty wherever there are reasonable grounds for believing in their existence, still, on the other, it should endeavour to avoid calling in question the characters of its functionaries upon the representation of every worthless, irresponsible and disappointed complainant, or of being betrayed into inquiries into the conduct of a person situated as Ballajee Punt Nathoo is, which, for the reasons briefly alluded to in paragraph 10 of this Minute, are likely to prove fruitless and abortive, even on the supposition of guilt.

16. I shall be obliged if my colleagues will look into the case, and favour me with their opinions as early as may be convenient. •

(signed) G. Arthur.

21 November 1844.

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MINUTE by his Excellency the Commander-in-Chief, dated 22 November 1844.

No. 7042.

I HAVE looked into this case, and I am satisfied that it ought to be dismissed without further hearing from the petitioner.

(signed) T. M'Mahon.

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MINUTE by the Honourable Mr. Crawford, without date.

No. 7043.

AFTER full consideration, I have no hesitation whatever in coming to a decision on this case. The minute of the honourable the President, shows the utter recklessness of the petitioner in his accusations against Ballajee Punt for a long time past, and I see nothing in the present application to Government to induce us to place more faith in the representations it contains, than has been given to his former accusations against the same individual. The period at which bribery and corruption are charged against Colonel Ovans, at the eleventh

hour, as has been justly observed by the honourable the Governor, carries with it, I think, a refutation of the accusation *in limine*, even if Colonel Ovans' high character and well-established reputation were not a sufficient guarantee to Government that he is incapable of the acts imputed to him.

I have known Colonel Ovans personally, from his first arrival in India (I think as far back as the year 1808, or thereabouts) to the present time; and I may add intimately throughout that period, for although circumstances prevented our meeting in later time for a considerable number of years, I never lost sight of him, or of the estimation in which he was held by all classes. Of his pecuniary transactions I had also an opportunity of knowing much in former days, and certainly his disregard of all selfish considerations, untainted however by any approach to extravagance, would point him out to me as amongst the last men in the service who would be guilty of corruption, or dishonourable dealing in any way. In fact, to sum up my opinion of Colonel Ovans in a very few words, I believe him to be utterly incapable of the acts imputed to him by this petitioner, or of any act as a public servant, or private individual, that need be concealed from any one. With these sentiments, I would deal with this as all former petitions from the same source, dismiss it at once.

(signed) *J. H. Crawford.*

22 November 1844.

No. 7044.

MINUTE by the Honourable Mr. *Reid*, without date.

IN my opinion, this representation of Bhire cannot be otherwise properly disposed of than as proposed by the honourable the President. This man is evidently put forward for the purpose of bringing discredit and suspicion upon those who were engaged in the inquiries which led to the dethronement of the ex-Raja of Sattara. He has urged one complaint only affecting himself, and that has been inquired into, and found groundless; every other accusation regards matters with which he has no connexion whatever, and of which it is impossible that he can of his own knowledge say any thing. The parties whom he asserts to have suffered from the acts which he details are perfectly able to come forward and represent their own grievances, and from them only should any complaints be received.

The character and reputation of honourable men who have well and zealously served the state, must not be left at the mercy of worthless and irresponsible individuals, who, urged by disappointment, or by some more unworthy motive, or employed as the mere tools of a faction, step forward as public accusers, trusting to accident, to interested and previously prepared evidence, or to the chance of being able to pervert to their purposes the information they may obtain from the records they require to be produced for fixing a semblance of reality on their accusations, and having little or nothing to lose on failing to establish them.

As a principle, a Government cannot too much discountenance the proceedings of such agents, and unless satisfied of the respectability and veracity of the accuser, and of the probability or almost certainty of the correctness of the accusation, it should, in my opinion, at once refuse to listen to all charges which are advanced by others than the parties said to be aggrieved.

Taking this view, I consider it quite unnecessary to make any remarks on the case before us, further than to express my regret that an officer of Colonel Ovans' established character should be liable to be traduced by such a person as Bhire appears to be. But this is an evil to which all public men are exposed, and especially those who in doing their duty place themselves in opposition to the interests of influential and unscrupulous adversaries.

(signed) *L. R. Reid.*

No. 7045.

Further MINUTE by the Honourable the Governor, concurred in by his Excellency the Commander-in-Chief, and the Honourable Mr. Crawford.

THOSE proceedings, as the Board are unanimous, should be sent to the Court by the next steamer.

(signed) *G. Arthur.*  
*T. M' Mahon.*  
*J. H. Crawford.*

(True extract.)

*J. Willoughby*, Chief Secretary.

THE following is a LIST of the PAPERS which accompanied the Despatch from the Honourable the Court of Directors to this Government, dated 4 September, No. 23 of 1844. Only those marked thus (\*) are on the Records of Government.

No. of Enclosures.	FROM.	TO.	DATE.	SUBJECT.	REMARKS.
1.	Crustnajeel Sudaseo Bhidday.	-- Hon. Court of Directors.	Dec. 1843	-- Advertis to the several charges of bribery and corruption preferred by him against Balajee Punt Nathoo; solicits the appointment of a Commission to inquire into these charges, and offers to prove them to the satisfaction of the Commissioners, the Local Government and the honourable Court.	
2.	A Certificate by H. Collins, Esq., Notary Public in Bombay.		13 Dec. 1843	-- Declares that the papers therein alluded to are true and faithful copies of two petitions addressed by Crustnajeel Sudaseo Bhidday to the Bombay Government, under dates the 29th September and 10th November 1843, preferring charges of bribery and corruption against Balajee Punt Nathoo.	
3.	A Declaration made on oath by Crustnajeel Sudaseo Bhidday.		Dec. 1843	-- States that the charges preferred by him against Balajee Punt Nathoo are just and correct; pledges himself to support them as such by legal and competent witnesses; and adds that Balajee Punt Nathoo made the deposal of the late Raja of Sattara subservient to the aggrandizement of himself and his creatures.	
(*) 4.	Crustnajeel Sudaseo Bhidday.	-- Hon. the Governor in Council.	29 Sept. 1843	-- Advances several charges of bribery and corruption against Balajee Punt, and solicits the appointment of a Commissioner to investigate the same.	
(*) 5.	Crustnajeel Sudaseo Bhidday.	-- Hon. the Governor in Council.	10 Nov. 1843	-- Reiterates the request for the appointment of a Commission to investigate the charges preferred by him against Balajee Punt Nathoo, and points out the bad consequences which would result by delaying to comply with his application.	
6.	Crustnajeel Sudaseo Bhidday.	-- Hon. the Governor in Council.	12 Oct. 1843	-- Advertis to the charges preferred by him against Balajee Punt Nathoo, and states that during the investigation of the charges of treason against the late Raja of Sattara, he (Crustnajeel) was considered by Lieutenant-colonel Ovens an honest and competent witness, but that now he prefers charges against Balajee Punt: that officer denounces him (Crustnajeel) as a bad character.	-- This letter was not received in the office, and is not on the road.
(*) 7.	J. P. Willoughby, Esq., Secretary with the Governor.	-- Crustnajeel Sudaseo Bhidday.	10 Aug. 1843	-- Informing him, in reply to his petition dated 29th June 1843, reiterating his charges against Balajee Punt Nathoo, that the answer returned to his petition of the 14th January preceding on the same subject, was final, and that no further petitions will be received from him in regard to it.	
(*) 8.	J. P. Willoughby, Esq., Secretary to Government.	-- Crustnajeel Sudaseo Bhidday.	13 Oct. 1843	-- Acknowledging the receipt of his petition, dated 29th September 1843, and informing him that the subject thereof is under consideration, and that an answer will be returned as soon as possible.	
9.	Crustnajeel Sudaseo Bhidday.	-- Hon. the Governor in Council.	10 Nov. 1843	- - - - -	-- This is a mere verbatim copy of Enclosure No. 5, above alluded to.
10.	Translation of a Declaration of Ram Row Bulwunt Nisbut Nimbalkur.		26 Dec. 1843	-- Declares that, at the request of his master the Nimbalkur, he paid to Balajee Punt Nathoo the sum of 15,000 rupees, and that this amount the Nathoo obtained by means of certain threats, and is, in fact, a bribe, which can be proved to the satisfaction of Government.	



List of the Papers which accompanied the Despatch from the Honourable the Court of Directors, &c.—*continued.*

No. of En- closures.	FROM.	T.O.	DATE.	SUBJECT.	REMARKS.
11.	Girgabaee, mother of the ex-Dewan, Govind Row.	- - -	11 June 1838	- - States that she is not aware of the grounds on which her son Govind Row was imprisoned, and denies having presented a petition to Government on the subject.	
12.	Girgabaee, mother of the ex-Dewan, Govind Rao.	- - Bulwunt Rao Chitnes.	19 Feb. 1843	- - Denies ever having addressed a petition to Government on the subject of the imprisonment of her son, Govind Rao.	
13.	- - -	- - -	- - -	- - - - -	- - Extracts from Parliamentary Papers relative to the intrigues of the ex-Dewan.
14.	- - -	- - -	- - -	- - - - -	- ditto.
15.	Khemday Rao Bulwunt Chitnees.	- - Rugoo Babajee, in London.	27 Mar. 1844	- - Furnishes certain information regarding the persons who were appointed to the office of Peishwa, and encloses a list of the officers of the Sattara state who held this high office.	
16.	Vishnoon Kessoo Devusthy, maternal uncle of Govind Rao, ex Dewan.	- - Rugoo Babarjee, in London.	16 Nov. 1843	- - Denies his ever having given a petition in Gergabhaee's name to the Resident at Sattara, or ever appeared as a witness in the investigation of the charges preferred against the Raja of Sattara in the Goa case.	
18.	Declaration of Govind Rao, the ex-Dewan.		- - -	- - Declares that his mother, Gergabhaee, did not present a petition to Government or to the Resident at Sattara, but that it was given by Balajee Punt Nathoo through a Carcoon, in the name of Gergabhaee, and that the said Carcoon now enjoys a pension under Balajee Punt's administration in Sattara; that the depositions he (Govind Rao) gave were exacted from him while in imprisonment in a dark dungeon at Ahmednuggur, and that the statements made by him with the view of saving his life, are false.	
19.	- - -	- - -	- - -	- - - - -	- - Note to Mr. Hume's letter of the 18th May 1844 to the hon. Court.
20.	- - -	- - -	- - -	- - - - -	- - Enclosures to Mr. Hume's letter of 25th June, forwarding extract of letters from the ex-Raja of Sattara connected with his deposal.

The only new matter contained in some of these papers are two points connected with the deposal of the ex-Raja, viz. the endeavour made by the ex-Raja's party to prove that the petition addressed to Government by Girgabaee, the mother of Govind Rao, ex-Dewan of Sattara, on the 13th December 1836, was written without her knowledge or participation, and that it is false; the second point is the endeavour to prove that the seals attached to certain documents in the Goa case, and known to be the genuine seals of the ex-Raja, are forgeries.

## — No. 2. —

MINUTE by the Honourable the Governor, concurred in by the Board.

No. 7451 (A.)

I CONCLUDE, as the papers have been sent us by the Court, the best course we can pursue is, in the first instance, to send them in original to Colonel Ovans, for his remarks.

In regard to the Bhidday's complaints and accusations, Colonel Ovans may be informed that Government, taking into consideration all the facts of the case, had dismissed them as unworthy of the slightest credit.

(signed) *George Arthur.*  
*T. M. Mahon.*  
*J. H. Crawford.*  
*L. R. Reid.*

## — No. 3. —

(No. 3952 of 1844.)

From *J. P. Willoughby*, Esq., Chief Secretary to Government, to Lieutenant-colonel *C. Ovans*, Resident at Sattara, dated 28 December 1844.

No. 7452.

Sir,

I AM directed by the Honourable the Governor in Council to transmit to you copy of a letter from the honourable the Court of Directors, dated the 4th September last, No. 23, together with its various accompaniments in original, being certain papers stated to have been received from India, in connexion with the case of the ex-Raja of Sattara.

2. In forwarding these documents, I am desired to request that you will be pleased to submit to Government, as early as may be practicable, any remarks you may have to offer on the points alluded to in the communications from Mr. Hume to the honourable Court, dated the 18th May and 25th June last, as connected with the deposal of the ex-Raja of Sattara.

3. With reference to the complaints and accusations contained in some of these documents, preferred against yourself and Balajee Punt Nathoo by Crustnajee Sudaseo Bhidday, I am desired to inform you, that Government having already taken into consideration all the facts of the case, has dismissed them as unworthy of the slightest credit.

I have, &c.

(signed) *J. P. Willoughby*,  
Chief Secretary.

Bombay Castle, 29 December 1844.

## — No. 4. —

(No. 3 of 1845.)

From Lieutenant-colonel *C. Ovans*, Resident at Sattara, to *J. P. Willoughby*, Esq., Political Chief Secretary to Government at Bombay, dated Sattara Residency, 14 January 1845.

Sir,

I HAVE the honour to acknowledge the receipt of your letter in this Department, No. 3952, under date the 28th ultimo, together with its various accompaniments, as noted in the margin,\* which I beg herewith to return.

2. In reply to the orders contained in the second paragraph of your letter, directing me to submit to Government any remarks I may have to offer on Mr. Hume's letters to the Honourable the Court of Directors, under date the 18th of May and 25th June last, I beg to state, that as all the evidence in the case of the ex-Raja of Sattara has been submitted both to the Governments of India and England, I do not think it would be expedient to re-open this discussion, more particularly as Geerjabhye, the mother of Govind Rao, the principal witness herein alluded to, has now been dead some years.

3. As regards the complaints and accusations preferred against myself and Ballajee Punt Nathoo by Crustnajee Suddaseo Bhidday, as I find it stated in the 3d paragraph of your letter now under reply, that Government, having already taken into consideration all the facts of the case, has dismissed them as unworthy of the slightest credit, it is unnecessary for me to remark upon them, except again to record my decided conviction that they are all utterly false.

I have, &c.

(signed) *C. Ovans*,  
Resident at Sattara.

Sattara Residency, 14 January 1845.

\* A letter from the Honourable the Court of Directors, dated the 4th September last, No. 23, together with its various accompaniments, in original.

## — No. 5. —

MINUTE by the Honourable Board, dated 28 January 1845.

THE principal allegations contained in the documents received from home are the following :—

1. That “ Ballajee Punt Nathoo ” made the deposal of the ex-Raja “ subservient to the aggrandizement of himself and his creatures.” This declaration was made on oath by Crustnajeew Suddasew Bhidday before Mr. Collins, notary public, Bombay, on the 13th December 1843. It must be obvious that this assertion can only be proved or disproved by re-opening, *ab initio*, the whole case of the ex-Raja of Sattara, than which nothing could, in my opinion, be more inexpedient, even if the assertion did not solely depend on a person, who is known, by his own confession, to be utterly unworthy of credit.

2. That Geerjabhye, on two occasions (in June 1838 and February 1843), declared in writing that she had never addressed any petition to Government on the subject of the imprisonment of her son, Govind Rao Dewan, and that any letter presented in her name was a forgery, and offering, if required, to take an oath to this effect. The remark above applies to this, with the addition, that Geerjabhye, who is stated to have made the assertion, died on the 3d April 1843.

3. A declaration from Govind Rao Dewan, that the representation, formerly made to Government in his mother's name, was concocted by an agent of Ballajee Punt Nathoo, “ who has, in consequence, been rewarded with a pension from the Sattara government.” It is remarkable that the name of the agent of Ballajee Punt Nathoo is not given, and without this, I am not aware what inquiry we could institute into an accusation, proceeding from one who has been found guilty of having been the chief instrument in the ex-Raja's intrigues.

4. A declaration by Govind Rao Dewan, that the deposition which he made while in confinement at Ahmednuggur was extorted from him in a dark dungeon, according to the instructions of Mr. Hutt, and that he made the admissions therein contained, which are entirely false, in order to save his life. These are assertions which, of course, can at once be either proved or disproved; and I would suggest that the allegation be forwarded for the remark of Mr. Hutt, and of those in whose custody Govind Rao Dewan was placed. This person, I believe, was never confined in a dungeon. I merely suggest the reference, because, if one part of his statements is, beyond doubt, shown to be false, no credit will attach to the remainder.

5. A declaration on oath by Crustnajeew Suddasew Bhidday, “ that he was the writer of the representation purporting to proceed from Geerjabhye,” and that he was induced to forge this document under a promise from Ballajee Punt Nathoo, of a present of 1,250 rupees, of which amount, however, he only received 150 rupees.

6. That Ballajee Nathoo concocted the above representation, and then delivered it to Crustnajeew Suddasew Bhidday. This assertion, if true, shows what a self-admitted villain this man is; I beg to refer to my minute, dated the 21st November last, and shall only observe, that it is most improbable that Crustnajeew Suddasew Bhidday would have so long concealed his present story, if it was the true one. The honourable Court should be referred to our despatch on the subject.

7. That the two seals and two signets found by Mr. Dunlop and Lieutenant-colonel Ovans, and alleged to belong to the ex-Raja, were not his property, but that one set belonged to one of the former Paishwas, and that the other set, if genuine, were the seal and signet of Sewajee, the first sovereign of the Mahrattas, who reigned about the year 1670.

8. That the statement in the proceedings connected with the inquiry into the charges against the ex-Raja, that one of the former Paishwas was named Suddasew Bajee Row, is incorrect, since no such person ever held that dignity.

9. That Vishnoo Kessow Dewas, whose alleged evidence against the ex-Raja was commented upon by the late Right honourable Sir Robert Grant in the 81st paragraph of his minute, dated the 5th May 1838, never appeared as a witness against the ex-Raja, or had any communication with the Resident on the subject of the charge against that personage.

10. That the ex-Raja was deposed by a system of subornation and perjury.

11. That Geerjabhye has declared on oath that she never, as has been alleged, waited on Lieutenant-colonel Ovans at midnight, and that if the interviews to which that officer has deposed actually occurred, she must have been personated by some other individual. On 7, 8, 9 and 11, we certainly might have expected some observations from Colonel Ovans, as they impugn circumstances, some of which must be matters within his personal knowledge. He should still be required to do so, for it may be remarked that, however much Government may concur with him in opinion as to the inexpediency of re-opening the Sattara question, still, as the honourable Court has been pleased to send out these documents to Government, it is our duty to afford all the information and explanation within our reach.

As regards that portion of these statements which arise out of the allegations of Crustnajeew Suddasew Bhidday, I would remark, in connexion with Mr. Hume's letter, that it is somewhat surprising to me that Mr. Hume should have attached such importance to assertions of a person who, as he was aware, “ now states both in his letter to the honourable Court, and on oath, in his several petitions to the Governor in Council, that he was inveigled by

by Ballajee Punt Nathoo into the affair of Gerjabhye upon a promise of receiving 1,250 rupees in money and a pension," or, in other words, a person who asserts of himself that he was influenced by bribes to commit perjury.

While on the same part of the subject, Mr. Hume has also alluded to the answers of the Governor in Council, "to the petitions (of Bhidday), refusing inquiry therein," on which I have merely to remark again, that the petitions in question contained gross charges against respected men, by a person on whose word, as was evident by his own showing, no reliance could be placed. That this person, for a long period, and without any reason assigned, must have concealed these alleged iniquities, which he only brought forward after he had (as he asserts) been aggrieved by the object of his accusations. That none of the charges (save one, which has been investigated) bear personal reference to the accused. That none of the parties stated to be aggrieved have ever made known any such grievances, though many of them are influential men, and all have the means of complaint. That the accused was not, at the time of the alleged commission of the act, a servant of this Government, and not, therefore, amenable to it for his actions then; and, moreover, that all the transactions referred to were conducted in places and by parties beyond the jurisdiction of British courts, and within the jurisdiction of the authorities of the Sattara government.

I think, therefore, that even had the character of the accuser been less unworthy than it is, there would have been cause to act with great caution in a matter affecting, as this would do, the relations between the Raja of Sattara and his subjects, and any discussion of which must lead to proceedings in which his Highness's own character, and the justice of his title to the throne, would of necessity be discussed and called in question.

(signed) *G. Arthur.*  
*T. M'Mahon.*  
*J. H. Crawford.*  
*L. R. Reid.*

## — No. 6. —

(No. 603 of 1845.)

From the Chief Secretary to Government of Bombay to *B. Hutt*, Esq. late Acting Judge of Ahmednuggur, dated 31 January 1845.

No. 1189.

Political  
Department.

Sir,

1. I AM directed by the honourable the Governor in Council to transmit to you copy of a deposition made, under date the 8th January 1842, by Govind Row Wittul, formerly Dewan of the ex-Raja of Sattara, declaring that the statement made by him while in confinement in the gaol of Ahmednuggur, in 1837, was extorted from him in a dark dungeon, according to your instruction.

2. In forwarding this document, I am desired to request that you will be pleased to submit to Government any remarks which you may wish to offer upon the allegations made by Govind Row, and at the same time report at what place and in what manner the Dewan was kept under restraint.

I have, &c.

(signed) *J. P. Willoughby,*  
Chief Secretary to Government.

Bombay Castle, 31 January 1845.

## — No. 7. —

(No. 604 of 1845.—Political Department.)

From the Chief Secretary to the Government of Bombay to *W. J. Hunter*, Esq. Judge of Ahmednuggur.

No. 1190.

Sir,

I AM directed by the honourable the Governor in Council to transmit to you copy of a deposition, made under date the 8th January 1842, by Govind Row Wittul, formerly Dewan of the ex-Raja of Sattara, declaring that the statement made by him while in confinement in the gaol of Ahmednuggur, in 1837, was extorted from him in a dark dungeon according to the instruction of Mr. Hutt, then Acting Judge of that place.

2. In forwarding this document, I am desired to request that you will be pleased to call upon the persons in whose custody Govind Row was placed, to submit any remarks which they may have to offer on the allegations contained in his deposition, and describe in what place and in what manner the Dewan was confined.

I have, &c.

(signed) *J. P. Willoughby,*  
Chief Secretary to Government.

Bombay Castle, 31 January 1845.

## — No. 8. —

No. 1191.

(No. 605 of 1845.—Political Department.)

From the Chief Secretary to the Government of Bombay to Lieutenant-colonel C. *Ovans*, late Resident at Sattara.

Sir,

I AM directed by the honourable the Governor in Council to acknowledge the receipt of your letter, No. 3, dated the 14th instant, reporting upon the documents accompanying the letter from the honourable the Court of Directors, No. 23, dated the 4th September last, connected with the case of the ex-Raja of Sattara.

2. In reply, I am desired to state, that the Governor in Council is desirous of being furnished with your observations on the allegations contained in Nos. 11, 12, 13, 14, 15, 16 and 17, to the honourable Court's letter above alluded to, as they impugn circumstances, some of which must be matters within your personal knowledge.

3. I am instructed to remark that, however much the Governor in Council may concur with you in opinion as to the inexpediency of re-opening the Sattara question, still as the honourable Court has forwarded these documents to Government, it is its duty to afford all the information and explanation within its reach.

4. These documents are therefore herewith returned, and you are requested to have the goodness to submit your observations upon them with as little delay as possible.

I have, &amp;c.

(signed) *J. P. Willoughby*,  
Chief Secretary to Government.

Bombay Castle,  
31 January 1845.

## — No. 9. —

No. 2344.

From Lieutenant-colonel C. *Ovans*, 1st European Regiment, to *J. P. Willoughby*, Esq.  
Chief Secretary to Government, Bombay, dated 7 February 1845.

Sir,

WITH reference to your letter in the Political Department, No. 605, under date the 31st ultimo, to my address, stating that the Governor in Council is desirous of being furnished with my observations on the allegations contained in Enclosures Nos. 11, 12, 13, 14, 15, 16 and 17, forwarded therewith, I beg you will have the goodness to submit the following reply.

2. As I have not any of the documents alluded to in these papers to refer to, and as the events herein to be reported upon happened, as is known to Government, some years ago, I think it necessary to state that I have to rely on my memory entirely, which may be imperfect, for the following observations.

3. As regards the first of these Enclosures, viz. No. 11, stated to be "a yad of Geerjabae Maharanee, the mother of Govind Row, dated the 11th June 1838," stating that she did not know for what reason her son had been imprisoned, nor did she give any petition on the subject; all I can say is, that this lady came in her own person, as reported by me in my letters to Government, and stated in my presence what is contained in those letters; she was also accompanied by the persons mentioned in those letters, and their evidence, if taken, will, no doubt, corroborate this fact. That it was no deception I can safely vouch for, as she afterwards came and visited my family at the Residency in the day-time, as other native ladies were in the habit of doing, when I again saw her, and thus I can speak positively as to her identity.

4. With regard to the declaration of Govind Row, forming the second paper of No. 11, I can have no hesitation from my knowledge of these transactions, in pronouncing these allegations to be entirely false. The karkoon employed by Geerjabae to write her petition was fully and satisfactorily proved to be a karkoon called Krishnaje Punt Bhidday, and the whole of this fact was duly submitted by me to Government. So far from this man receiving a pension, or being in any way under the influence of Ballajee Punt Nattoo, it is well known to Government, that because I would not interfere to obtain for him the reward promised to him by Geerjabae for writing her petition, this very man is now incessantly preferring false and groundless charges to Government, both against myself and Ballajee Punt, so that this statement is false on its own showing. That Mr. Hutt ever used any sort of coercion to obtain any statement from Govind Row, will be fully disproved by the records of these transactions. So far from Govind Row being imprisoned in a dark dungeon at Ahmednuggur, I believe I can safely say that he was treated with the greatest kindness and consideration, both at Poonah and Ahmednuggur, and that whatever statements he made were entirely voluntary, and therefore, though not necessary (the evidence in his case being complete before), were highly confirmatory of his own guilt and that of the ex-Raja of Sattara.

5. The paper No. 12, of those enclosures, merely contains a repetition of the disavowal of the petition of Geerjabae, as set forth in No. 11, and, therefore, I need only refer to what is above stated on this subject. This paper, however, I see admits that she (Geerjabae) came to the residency in the daytime, as mentioned by me above; as therefore, as I before said, I have no doubt of her identity, or of its having been the same person who had visited

me

me before, as reported by me to Government. Moreover, when the age of this person is recollected, and my character and position at Sattara are taken into account, there was nothing whatever to prevent her doing so, except the fear of the ex-Raja, and this it was which obliged her at first to come in the evening instead of openly in the day-time, as she otherwise would have done.

6. The papers marked Nos. 13, 14, 15 and 16 of these accompaniments, refer to the inscriptions on the seals used by Nagoo Dewrow. But although these inscriptions may not have corresponded with the inscriptions on the seals in daily use by the ex-Raja of Sattara, still this does not appear to me to throw any doubts on the Goa case, or to disprove the mission of Nagoo Dewrow, as it is not likely that on such a mission the real seals of Government, or fac-similes of them, would have been entrusted to him. It is rather to be supposed that concealment would be resorted to, and seals of a former reign used, which would answer the purpose as well, and thus less danger would be incurred. But the seals used by Nagoo Dewrow are now at Sattara, and perhaps, if carefully compared with the old seals of the Sattara government, of which I believe there is a great number in the possession of the present Raja, this might throw some light on this part of the affair.

7. As regards No. 17 of these accompaniments, which is stated to be the translation of a letter from Vishnoo Kessow Dewustuley, denying that he ever appeared as a witness against the ex-Raja; not having the evidence of this person to refer to, I cannot now recollect either the person or the statement of this witness; all I can say, therefore, is that the deposition of every witness was duly taken by me, and attested by me, and that it is not likely that any mistake as to the identity of this witness could have occurred. But as Ballajee Punt Nattoo must be personally acquainted with this witness, and must have a perfect recollection of these occurrences, I have little doubt that he would be able to afford Government any further information, either on this or on any other point connected with these proceedings, though, as before remarked, it does not appear to me to be either wise or expedient to re-open the case of the ex-Raja of Sattara, or to institute any fresh inquiries on this subject, as this might only raise the hopes of the disaffected throughout the country, and thus involve both public and private inconvenience.

8. I beg herewith to return the original papers marked Nos. 11, 12, 13, 14, 15, 16 and 17, with this letter.

I have, &c.

(signed) C. Ovens,

Lt.-Colonel 1st European Regiment.

Bombay, 7 February 1845.

— No. 10. —

MINUTE by the Honourable the Governor, subscribed to by the Board; without date.

No. 2345.

THESE answers of Colonel Ovens appear to be quite satisfactory, so far as they go.

His observations on the matter of the seals, I think highly just.

He has omitted, however, to notice the discrepancy in the name of the Peishwa said to be engraved on one set of seals.

(signed) Geo. Arthur.  
T. M<sup>r</sup> Mahon.  
J. H. Crawford.  
L. R. Reid.

— No. 11. —

(General, No. 101 of 1845.—Political Department.)

No. 2346.

From J. Buchanan, Esq., Assistant Judge and Session Judge, in charges S.\* to the Chief Secretary to Government, Bombay, dated 14 February 1845.

\* Orig.

Sir,

WITH reference to your letter, dated the 31st ultimo, No. 604, with enclosure, I have the honour, in the absence of the Judge and Session Judge on circuit at Dhoolia, to transmit the accompanying Mahratta depositions (with translations in English), given before me on solemn affirmation, by the persons noted in the margin,† and in whose custody Govind Rao Dewan was during the period of his confinement in Nuggur.

I have, &c.

Ahmednuggur Court of Adawlut,  
14 February 1845.

(signed) J. Buchanan,  
Assistant Judge and Session Judge in Charges.

† 1 Moro Oodharam, Nazir.  
1 Towjee W<sup>d</sup> Buggagee, deputy gaoler.  
1 Nunbajee W<sup>d</sup> Puttrajee, havildar of peons.  
1 Shitee W<sup>d</sup> Luxoomun, peon.  
1 Buppoo W<sup>d</sup> Govinda, peon.

TRANSLATION of a Deposition given on solemn Affirmation by *Moro Ooderam*, Nazir of the Ahmednuggur Adawlut, by caste a Brahmin, aged 35, Inhabitant of Nuggur; before J. Buchanan, Esq., Assistant Session Judge.

*Question.*—A LETTER has been received from Mr. Chief Secretary Willoughby, by order of the honourable the Governor in Council, under date the 31st January 1845, setting forth that Govind Row Vittul Dewan, of the late Raja of Sattara, had made a petition to Government, the substance of which was, that in the year 1837, when he was a prisoner in the Ahmednuggur gaol, Mr. Hutt, then Acting Judge, had taken his deposition; that the same was extorted from him in a dark room; that the orders of Government are, that the evidence of persons in whose custody Govind Row was, be taken, with any remarks they may have to make on the allegations contained in his depositions; and also describe in what manner the Dewan was confined. Were you therefore, Nazir, at the time above stated, and if so, what do you know regarding it?

*Answer.*—On the 13th July 1837, Govind Row Dewan arrived in Nuggur; Mr. Hutt was at this time absent on circuit at Dhoolia, and Mr. Webb was consequently in charge; by his order, Govind Row was placed in the criminal gaol, and occupied that portion of it allotted to Brahmins. On Mr. Hutt's return from Dhoolia, he had an interview with the prisoner in the gaol; shortly after which, he (the prisoner) was transferred, on the 23d August 1837, to apartments in Durree Cusbin's "warra," which had been hired by Government at a rent of 15 rupees monthly; from that date up to the 10th September 1839, he remained there, on which date he was released. During the time he was in confinement in the gaol, he was under the custody of Shitee W<sup>d</sup> Luximun, sepoy, for a period of about six or seven months; from the time that he came into Durree Cusbin's "warra," Shitee was still continued in charge of him, together with Myput Row, havildar; this last-mentioned person is now employed on the establishment of the Judge of Poonah; Shitee was subsequently removed, and Bajee W<sup>d</sup> Raghoojie appointed in his place; he is since dead; Buppoo W<sup>d</sup> Govinda was for some time in charge of the prisoner; Myput Row, havildar, was also removed, and Numbajie W<sup>d</sup> Puthajie, havildar, appointed in his place. The above-mentioned persons are all that were in charge of the Dewan, when he (the Dewan) was in the gaol; he never was confined in a dark room, but in an open and light apartment; when in the Cusbin's "warra" he was in an open space, the rooms being none of them locked. When Mr. Hutt went to visit the prisoner, no one accompanied him, and I know nothing of any deposition having been taken from the prisoner in a dark room, and had such been the case, I should have been certain to have known of it. Whenever Mr. Hutt came to visit the Dewan, the sepoys were always directed to remain at a distance. The Dewan never told me that Mr. Hutt had compelled him to give a deposition, by resorting to force, and imprisoning him in a dark room.

Dated 6 February 1845.

(signed) *Moro Ooderam*, Nazir.

(True translation.)

(signed) *J. Buchanan*, Assistant Judge.

TRANSLATION of a Deposition given on solemn Affirmation by *Towjee W<sup>d</sup> Baggajee*, Coonkee, aged 45, Deputy Gaoler, Inhabitant of Nuggur; before Mr. Buchanan, Assistant Session Judge.

*Question.*—You were deputy gaoler during the period that Govind Row Vittul Dewan was in confinement at Nuggur, state therefore what you know regarding the Dewan's having been placed in a dark dungeon, and compelled to give his deposition by Mr. Hutt, then Acting Judge?

*Answer.*—Govind Row Dewan was for some time under custody in the Nuggur criminal gaol, he was confined in a chowk allowed to the Brahmins, and was not placed in any dark dungeon. During the Dewan's confinement in the gaol, Mr. Hutt visited him, but I was not near them, we were all at our work; I never saw nor heard whether any statement was forcibly extorted from him or not by Mr. Hutt, then Acting Judge; the Dewan was subsequently removed to Dunro Cusbin's house, where he was placed under custody, in an open place, and not in any confined apartment.

Dated 6 February 1845.

(signed) *Towjee W<sup>d</sup> Baggajee*,  
Deputy Gaoler.

(True translation.)

(signed) *J. Buchanan*, Assistant Judge and Session Judge.

TRANSLATION of a Deposition, given on solemn Affirmation by *Nimbajee W<sup>d</sup> Puthajee*, Coonbur, aged 60 years, Havildar Nisbut Adawlut, Inhabitant of Nuggur; before John Buchanan, Esq., Assistant Session Judge.

*Question.*—Did you attend on Govind Row Vittul Dewan during the time he was in confinement at Nuggur, if so, state what you know in regard to Mr. Hutt having extorted a statement from him in a dark dungeon?

*Answer.*

*Answer.*—I did attend Govind Vittul Dewan while in confinement at Nuggur, in the house of Durree Cusbin, for the space of about six or seven months; he was not confined in any dark dungeon, but was at large, though under custody in the said house. Mr. Hutt, then Acting Judge, was in the habit of going to visit him at certain times; but during that period no third person was permitted to be near; I took my seat inside the gate; I did not hear, and am ignorant of what passed betwixt Mr. Hutt and the Dewan; I never heard of Mr. Hutt having extorted any statement from the Dewan in a dark dungeon.

Dated 6 February 1845.

(signed by mark) *Nimbajee W<sup>d</sup> Puthajee Patell.*

(True copy.)

(signed) *J. Buchanan*, Assistant Judge, Session Judge.

TRANSLATION of a Deposition given on solemn Affirmation by *Shettee W Luximon*, Coonbee, aged 30 years, Adawlut Sepoy, and an inhabitant of Nuggur; before J. Buchanan, Esq., Assistant Session Judge.

*Question.*—WHEN Govind Row Vittul of Sattara was in confinement at Nuggur, did you attend on him by order of the Sirkar, and if so, do you know any circumstances relative to forcible means having been resorted to by Mr. Hutt, then Acting Judge, in taking his deposition in a dark dungeon; if so, state what they were?

*Answer.*—I did wait on Govind Row Vittul while in confinement in the gaol at Nuggur, and subsequently in Durree Cusbin's house; he was not placed in any dark dungeon in either of the places, but in an open "chowk" (belonging to Brahmins) during the time he was in gaol. He was also at large in Durree Cusbin's house; when the Dewan was under custody in the latter place, Mr. Hutt visited him at various times; I was not allowed to be near on those occasions, but took my seat inside the front gate. I do not know what conversation then occurred between Mr. Hutt and the Dewan; further, I do not know; neither did I ever hear of Mr. Hutt having extorted any deposition from the latter in a dark dungeon. I was about seven months with Govind Row Dewan after his arrival here.

Dated 6 February 1845.

(signed by mark) *Shet. W<sup>d</sup> Luximon.*

(True translation.)

(signed) *J. Buchanan*,  
Assistant Judge, Session Judge.

TRANSLATION of a Deposition given on solemn Affirmation by *Bappoo W<sup>d</sup> Govinda*, Coonbee, aged 36 years, Adawlut Sepoy, resident of Ahmednuggur; before John Buchanan, Esq., Assistant Session Judge.

*Question.*—DID you wait on Govind Row Vittul Dewan of Sattara, by order of the Sirkar, while in confinement at Nuggur; if you did, state what you know respecting a statement alleged to have been extorted from him, in a dark dungeon, by Mr. Hutt the late Acting Judge?

*Answer.*—I did wait on Govind Row Vittul Dewan for the space of about two months, when he was placed under custody in the house of Durree Cusbin, under instructions from the Sirkar. He was not placed in any dark dungeon, but at large. On certain occasions Mr. Hutt, then Acting Judge, paid him visits, but at those times I was not allowed to remain near; I used to take my seat near the gate. I do not know what conversation was carried on between the Dewan and Mr. Hutt. No third person was suffered to be near them on those occasions. I do not know, neither have I ever heard of any statement having been extorted in a dark dungeon, from the Dewan by Mr. Hutt.

Dated 6 February 1845.

(signed by mark) *Bappoo W<sup>d</sup> Govinda*, Sepoy.

(True Translation.)

(signed) *J. Buchanan*,  
Assistant Judge and Session Judge.

—No. 12.—

MINUTE by the Honourable the Governor, subscribed to by the Board; without date.

No. 2347.

1. THESE depositions certainly go far to disprove the allegations against the authorities at Ahmednuggur, by showing that the Dewan, during his confinement at Ahmednuggur, was treated with an unusual degree of consideration.

2. Doubtless Mr. Hutt's answer will complete the refutation of the charges, and on receipt of it we may answer the Court's despatch.

(signed) *Geo. Arthur.*  
*T. M<sup>r</sup> Mahon.*  
*J. H. Crawford.*  
*L. R. Reid.*



## —No. 13.—

To the Chief Secretary to Government, Bombay.

Sir,

I HAVE the honour to acknowledge the receipt of your letter of the 31st ultimo, which reached me yesterday (Sunday) at Dalka, in which you enclose a deposition, made by Govind Row Wittul, Dewan of his Highness the ex-Raja of Sattara, declaring that the statements made by him at Ahmednuggur in 1837, were extorted from him while he was incarcerated in a dark dungeon, and regarding which I am requested to offer explanation.

It was with much pain I beheld a statement, containing so total a departure from truth, from one occupying such a station in life, and of whom I had received rather a favourable impression; it is another instance, however, of that lamentable want of uprightness which has been so unfavourably remarked on by others, in treating of the people of this country. I shall then proceed to relate all the necessary particulars regarding him while under my care, so far as I can, at this distance of time, recall them to remembrance.

It was, I think, about August, during my absence on circuit at Dooliah, for the sessions, that Govind Row arrived at Ahmednuggur; he was accordingly received by my Assistant, and for the time lodged in the most suitable quarters in the gaol; on my arrival a few days after, he was, with the consent, if not by the express direction of Government, provided with a lodging in a Hindoo house in the town, hired for the purpose; this, doubtless, was less spacious, and afforded fewer conveniences than he had been accustomed to at his house at Sattara, but it was deficient in nothing essential to comfort.

I have not my papers with me to refer to, but my impression is, that the Government instructions regarding him represented him as a state prisoner of rank, against whom no crime had been proved, but whom it was necessary should be kept in custody, and who was not to be allowed to see any other person, except with the concurrence of Colonel Ovans, and that every consideration compatible with the attainment of these objects were to be shown him.

He had with him some one, two or three of his own dependents, and, after a time others were permitted to visit him; one in particular came very soon after Govind Row himself arrived, with a letter from Colonel Ovans, and he was with him constantly by day, yet did not reside with him. I visited him also myself frequently, sometimes sitting and conversing with him for a considerable time; he always expressed himself as being perfectly comfortable.

Govind Row had not been long under my care, when one day he sent a message to say he particularly wished to see me; I accordingly repaired to his lodgings; he then, after a brief preliminary discourse, told me, that when inquired of at Sattara, he had denied all knowledge of the matters on which he was interrogated; that his duty to his Sovereign required it; but that he now found he could do him no good by longer persisting in what was false; that the kind and considerate treatment he had experienced had inspired him with confidence, and that he was prepared, under certain conditions, to divulge the whole that he knew. These conditions were, that he should not be compelled to make a public disclosure, and that no public native officer should be called in to take it down.

To the best of my belief, I then proposed to send at once for pen, ink and paper, and write it, but he offered some objection, to the effect that suspicion would be excited, and reports circulated about it, which might be hurtful; it was then arranged, that he should come to my house on the following day at about ten o'clock, for the purpose, when I was to have all prepared; proper precautions being taken that no one should be within hearing, and he would then fully and unreservedly divulge all he knew.

He came accordingly, attended, I think, by the person above referred to, but whose name I do not now remember; and sitting in the room on the south side, with all the doors and windows (down to the ground) open, he related the whole he had to say—he writing it in Mahratta with his own hand, whilst I wrote it in English. Of course, much was said by way of explanation which was not written, in order to enable me to form an idea of what was necessary to be worded, or to comprehend the story. He often invited me to question him on any part of it, saying, that having now so made up his mind, he felt most anxious to disburden himself, and he certainly impressed me with the belief of the truth of what he had generally stated.

The answers to the questions which were afterwards sent me by Government to be put to him, were obtained in the same way; all are in the possession of Government, and can be referred to.

Govind Row was, I think, several times at my house, and once or twice he came to walk in the garden. He was allowed to take exercise beyond the limits of the town, attended by an escort of the Poonah Auxiliary Horse; in short, my own inclination so fully responded to the wishes of Government in respect to him, that there was nothing I could think of in an ordinary way tending to alleviate his condition, that could consistently be awarded him, that he had not.

Should

Should the Government desire any further assurance in regard to the treatment he met with, I would suggest that the Nazir of the Court at Ahmednuggur be examined. The jemadar and peons in attendance at the Judge's bungalow would also be able to refer to the fact of his coming and sitting with me as described, and they would probably be able to speak to the writing that was going on, though, of course, not as to what it was about.

I have, &c.

Gondee, 24 February 1845.

(signed) *B. Hutt*, Acting Judge and  
S. Judge of Ahmednuggur in 1837.

— No. 14. —

MINUTE by the Honourable the Governor, concurred in by the Board, dated  
25 March 1845.

THIS Report fully confirms the evidence we have received from other quarters, of the utter falsity of the recent statement purporting to proceed from Govind Row Dewan, impugning the facts to which he deposed before Mr. Hutt in 1837.

Instead of being confined in a dark dungeon at Ahmednuggur, a house was expressly assigned for his accommodation.

With reference to the last paragraph of Mr. Hutt's letter, we have already obtained the evidence of the Nazir of the Adawlut at Nuggur, of the evidence of deputy gaoler of the Nuggur Gaol, and of the havildar and two sepoys who were in constant attendance on Govind Row while he was in confinement. The depositions of these persons fully corroborate Mr. Hutt's statement, and disprove the present assertions alleged to have been made by Govind Row, that his confession was extorted from him in a dark dungeon at Ahmednuggur, and that he made it in order to save his life.

We have now, I think, exhausted the inquiry which we were directed to institute, and the result should be communicated by an early opportunity to the Honourable the Court of Directors, and to the Government of India.

(signed) *G. Arthur.*  
*T. M' Mahon.*  
*J. H. Crawford.*  
*L. R. Reid.*

25 March 1845.

(True copies.)

East India House, }  
27 June 1845. }

*T. L. Peacock,*  
Examiner of India Correspondence.

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**(Mr. Hume.)**

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